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THE ANDHRA PRADESH GAZETTE

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PART II - MISCELLANEOUS NOTIFICATIOSN OF INTEREST TO THE PUBLIC

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NOTIFICATIONS BY HEADS OF DEPARTMENTS Etc.,

ANDHRA PRADESH STATE WAQF BOARD, VIJAYAWADA

REMOVAL FROM SERVICES OF MUTHAWALLI OF SMT. SHAIK SILAR BEE D/O SRI SHAIK MASTAN FOR DARGAH HZT. SYED BAJI SHAHEED AULIA RH. AT PEDDAKAKANI (V) AND (M), GUNTUR DISTRICT. -

Ref:-

1. A.P.S.Waqf Board Proc. No.l05/GNT/2013/Z.V, dated: 21-12-2015.
2. A.P.S.Waqf Board Proc. No.l05/GNT/2013/Z.V, dated: 17-05-2016.
3. AOC issued by the Enquiry Officer in Rc. No. ENQ/105/GNT/2013/Z- V, Dated: 04-06-2016.
4. Defence statements submitted by Smt.Shaik Silar Bee, Dt:27-06-16.
5. Findings of the Enquiry Officer submitted vide Rc.No.

   ENQ/105/GNT/2013/Z-V (B), Dated:05-1l-2016.
6. Orders dated: 21-06-2017 issued by the Hon’ble High Court Hyderabad in W.A. No. 775/2017 in W.P.No.8707/2016 and 13764/2014.
7. AP State Waqf Board Show-Cause Notice Issued Vide F.No.l05/GNT/T/ 2013/Suppl, dated. 03-07-2017.
8. Explanation dt. 12-07-2017 submitted by the Muttawalli in reply to the show-cause notice.
9. Orders of the Competent Authority Dated.08-08-2017

F.NO.105/GNT/2013/Z.V-,- The A.P State Waqf Board in their proceedings NO.105/GNT/2013/Z.V, dated: 21-12-2015 had appointed Sri Saheb Khan, Executive Officer as Enquiry Officer in the case of disciplinary action initiated against Smt.Shaik Silar Bee D/o Shaik Mastan, Mutawalli under suspension for her alleged omissions and commissions as Muthawalli of Dargah Hzt. Baji Shaheed (RA) Peddakakani, Guntur District. Subsequently, the Board has extended the time given for enquiry in the reference 2nd cited.

Consequent to the said appointment the Enquiry Officer has issued statement of Article of Charge framing the following charge against Smt.Shaik Silar Bee, Muthawalli under suspension vide reference 3rd cited. Copies of the relevant documents to substantiate the allegations were also supplied along with Article of Charges.

Charge No.1: **Commission of Gross financial irregularities:**

Smt.Shaik Silar Bee D/o. Sri Shaik Mastan, while functioning as Mutawalli of Dargah Hzt Syed Baji Shaheed Aulia(RH), Peddakakani (V & M), Guntur District, from the date of appointment to date of suspension, committed the following irregularities.

a) An amount of Rs. 5,50,000/- was borrowed by the Mutawallies to celebrate Urs festival during 2013-14 without obtaining the necessary permission from the state Waqf board.

b) Opened account No.131110109540 of Canara Bank, Peddakakani Branch in the personal name for conducting transactions of the institution without permission of the Higher Authority.

c) Committed the following grave irregularities in dealing with Dargah funds and failed to maintain accounts in proper form.

i) All expenditure payments were paid by cash instead of cheque payment.

ii) Hundi collections which are income accrued to Dargah were not deposited in the Bank as and when the Hundies were opened.

iii) Minutes Book was not produced before the Audit authorities.

iv) Authorised eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to Audit, on account of which, the transactions shown in the Books were not confirmed by the Auditors.

v) Transactions are not made through Bank Accounts to establish the genuineness of the payments.

vi) No evidence is produced for the conduct of Sunday Amavasya Festival involving an amount of Rs.1,11,695/-

vii) The expenditure of Rs.21,000/-towards repairs to Borewell and the expenditure of Rs.82,000for Tati Aakula Pandiri, are unreasonable.

d) Incurred irregular and unauthorised expenditure on works not connected with Dargah Hzrath Syed Baji Shaheed Aulia(RA) Peddakakani.

According to Audit Report 2010-11, 2011-12 and 2012-13, the following irregular and unauthorised expenditure was incurred towards items not connected with this Institution.

A) As per the Audit Report by M/s. K.V Brahmum and Co., CA, Guntur for the year 2010-11.

1	Audit Fee	37,585.00
2	Haz Janapadu Urus Celbr.	18,825.00
3	Moharam Festival expenses	15,525.00
4	Hzt. Syed Baji Ouliya chill festival	57,825.00
5	Depreciation	2,93,280.00
6	Milainabi festival	32,300.00
7	Hazrath Kali Mastanvali Urus	27,000.00
8	Annadanam	92,405.00
9	Shab-e-Barath	5,800.00
10	Balwid Festival	43,065.00

11	Baba Barasal(Chilla) exp	1,19,955.00
12	Miscellaneous expenses	64,149.00
13	Campus levelling charges	1,03,950.00
14	Janapadu bab Nishary constructor	20,000.00
	Total	**9,31,664.00**

B) As per Audit Report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2011-12.

1	Sunday Amavasya Festival Annada	1,84,895.00
2	Perecherla Ghan Saidabad Nishan	27,675.00
3	Ameenullah Baba Nishan Exp A/c	63,450.00
4	Sheb-e-Baratth Festival Exp A/c	8,150.00
5	Audit Fee A/c 2010-11	37,585.00
6	Bakrid Festival Exp A/c	77,500.00
7	Hazt. Syed Janpadu Saida Urs Exp.	43,072.00
8	Rapairs	83,875.00
9	Hazt. Syed Karimulla Baba Urs Exp	46,200.00
10	Hazt. Khader Vali Baba Urs Exp A/c	81,000.00
11	Tatakula Pandiri making exp A/c.	82,000.00
12	Miscellaneous expenses	28,895.00
13	Road Formation	49,000.00
14	Repair expenses	83,875.00
15	Moharram Festival expenses	9,000.00
16	Depreciation	2,82,749.00

17	Red Rose flowers	61,350.00
18	Electrical Repairs	47,595.00
19	Gravel Expenses	1,50,400.00
	Total	**14,48,266.00**

C) As per Audit report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2012-13.

1	Fhakuruddin Baba Urs Celebrati	8,000.00
2	Hazt. Syed Khaja Garibul Namaz	86,250.00
3	Darga Staff Salaries A/c	6,42,000.00
4	Sheb-e-Barath Festival Exp A/c	2,700.00
5	Audit Fee A/c 2011-2012	49,590.00
6	Baji Baba Chilla Expenses	44,160.00
7	Bakreed Festival	18,000.00
8	Hazt. Karimulla Bab Urs Expenses	6,200.00
9	Janapadu Baba Urs Exp	10,500.00
10	Miladun-Nabi Festival Expenses	5,400.00
11	Syed Karimulla Bab Urs Expenses	59,300.00
12	Syed Mahaboob Subhani Garmy	63,685.00
13	Ameenulla Bab Urs Celebratior	32,500.00
14	Depreciation	3,21,521.00
15	Audit Fee A/c 2012-2013	42,570.00
16	Ameenulla Bab Nishan Exp	51,400.00

17	Loans repaid	51,300.00
		14,95,076.00
	Total	

e) Sri Sk. Adam and Ghouse Mohiuddin are engaged to prepare Dargah Account without obtaining permission from the Waqf Bard. Paying Rs. 6,000/- and 5,000/- PM respectively and were paid accordingly.

Charge No.II: **Criminal Misappropriation and Cheating:**

a) Dr. S. Khader Basha, MBBS ; Rukhiya Clinic, came forward with an offer to demolish the leaking roof (slab) of the Dargah and lay a new slab at his cost. Dr. S. Khader Basha in his statement Dt: 22-04-2014 stated that he had consulted Mutawallis and obtained their oral permission to take up the construction and had accordingly constructed a new Mosque in place of the Old Mosque, with an adjoining Shed, and also a residence for Pesh Imam with a Tin Roof. Further he stated that as the leakage in the roof over the Dargah was inconveniencing the devotees, he laid a new slab and also constructed the Dome over the Dargah. He also said that the other works like fixing red tiles and platform for devotees to stay and a wall towards the railway track were also constructed by him with his own money. These facts have also been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement dt: 10-05-2016.

It is seen from the Audit Reports filed by M/s K. V Brahmum, C.A, Guntur that an amount of Rs. 2,62,650/- was incurred during the following years for the items noted against each.

1. Audit report for 2010-11-	1. Mosque store Room	- Rs. 14,550
	2.Mosque Pesh Imam Room Construction	- Rs. 40,000
	Total	Rs. 54,550
2. Audit Report for 2011-12 -	1. Mosque repairs -	Rs. 85,500
3. Audit report for 2012-13	1. Mosque repairs	- Rs. 19,000
	2.Mosque Shed Construction	- Rs. 1,03,600

Total	Rs. 1,22,600
Grand Total	Rs. 2,62,650

The Mutawallis have thus exhibited the expenditure in Accounts of Dargah for the works carried out by others as if the said works were executed by them and misappropriated the amount cheating the institution.

b) Sri Shaik Ghouse Mohiddin Mutawalli executed an agreement on 21.11.2013 with Shaik Dawood S/o. Meera Saheb for H.P Gas service taking an advance of Rs. 25,000/- and a deposit of Rs. 9,000/- totaling Rs. 34,000/- Sri Shaik Basheed, Sri Shaik Mahaboob Ali, Sri Shaik Silar Bee, Sri Shaik Akbar Ali, Sri Shaik Galib have entered into an agreement on 29-06-2013 with Sri Vuyyala Koteswar Rao S/o. Venkateswarlu for a lease of permitting slaughter of goats collecting Rs. 13,000/-. Sri Shaik Basheed S/o. Shaik Mohiuddin, Shaik Mahaboob Ali Sri Shaik Akbar Ali leased out a shop by executing an agreement Dt: 26-03-2013 with Sri Pathan Mastan Vali S/o. Meera Saheb for running a Hotel for a period of (1) year collecting an amount of Rs. 40,000/- + 6,000/- totally Rs. 46,000/- all the agreements were executed without permission of the Board and amounts collected were not brought to the accounts of the institutions. They do not find place in the audit reports also. The Mutawallies are not competent to enter into any lease agreements without prior permission from the Board. Further they have collected the following sums under acknowledgements.

1. Receipt No. 12, Dt: 18.03.2011, Sri Shaik Gali Shaheed Rs. 5000/-
2. Receipt No. 4, Dt: 19.11.2011, Sri Galeesa Rs. 5000/-
3. Receipt No. 7, Dt: 18.03.2011, Smt Shaik Mahboob Bi Rs. 5000/-

The sums were neither accounted for nor the fact intimated to the Board. The Mutawallies are not authorized to collect the money on any such items. They have thus, exercised powers beyond competency and acted without any authority and misappropriated the amount.

Charge No.III: SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS:

There is practice of sale of Taveez, Bandish, Skin, Head Shave, Broken Cocunut, Chappal Stand, Fowl cutting, Hire, Tal- Bazari Shops, Gulf Cloth, Hundi Collections etc., at the Dargah premises.

As per Board Memo No. B3/24/GNT/2006/Z-IV, Dt: 18-12-2006 an arrangement was made for the sale of these items by Mujawars and Mutawallies for (21) days and (9) days in a month respectively. The income generated on sale of the above item during their 'Barries' (rotation) was not accounted properly and credited to the institutions.

According to audited Accounts prepared by M/s. K. V Brahmum CA, Guntur , the items of sale proceeds of Lemon, Bandish and vehicle pooja have no at all been brought to account. The income derived by sale of Taveez, per annum was shown as Rs. 82,460/- and Rs. 93,415/- for the years 2011-12 and 2012-13 respectively. As against this, the Institution, under Direct management, (after the suspension of Muthawallis) derived an income of Rs. 1,18,146,248/- for two years ie., for the period from 4/2014 to 3/2016 more than Rs. 59,00,000/- P.A, on an average.

Further, as per the Audited annual statements of accounts, by M/s. K.V Brahmum CA, the Muthawawallies have shown the following total income to Dargah during the years 2010-11 to 2012-13.

1. Year	2010-11	Rs. 23,53,910
2. Year	2011-12	Rs. 26,45,465
3. Year	2012-13	Rs. 24,03,492

The Waqf Board has taken over the institution under Direct Management and the income derived for (2) years from 15-04-2014 to 31-03-2016 is Rs. 2,56,59,772/- i.e, approximately Rs. 1,28,30,000/- per annum. There is reason to believe that the Mutawallis were suppressing huge sums of Dargah income and misappropriated the same.

The Mutawallis instead of availing 10% of the income as their share, have not only taken 10% of the accounted income , but also misappropriated huge sums.

Mutawallis, though charged with the responsibilities of Dargah management failed to act in a transparent manner nor sought directions from the Board for foolproof conduct of transactions.

Charge No.IV: **DEFRAUDING WAQF PROPERTY FOR WRONGFUL GAINS:**

There are (51) structures (shops) within the Dargah premises used by persons for vending coconuts, fancy goods, sweets, tea, etc., All the structures are provided electric power on the service connection in the name and Account of Dargah. The Mutawallis were alleged to have taken control of some structure without paying any rent using them for their personal use or to sub-let. The Mutawallis were collecting the rents of the said structures until their suspension treating the area as Dargah land but are now coming up with the plea that the land on which the structures are located is Government Poram Poke, to deprive the Dargah of the possession, control and administration of the structures and the land. Their actions are at Cross purposes with the Dargah interest and prejudicial to the institution.

Charge No.V: **EXCERSING OF POWERS BEYOND EMPOWERMENT**

The Mutawallis are not vested with the powers of issuing NOC or permission to any one for raising any permanent structure on the land belonging to Dargah. As against this, the Mutawallis permitted One Sri Pathan Mahboob Subhani to raise a structure in the south east of Dargah in the name of Kareemullah Shah Nishani as is evident from the statement of Sri Ghouse Mohiuddin, Sri Basheed and Sri Mahboob Ali, dated: 04-04-2010. Thus the Mutawallis exercised powers beyond their competency.

Charge No.VI: **MISUSE OF PERSONS IN EMPLOY OF DARGAH**

According to Audit Report 2011-12, there are (13) persons in the employment of Dargah. All the employees were not found on duty, when Auditors cross checked their attendance during Audit.

Sri Shaik Abdul Sattar, Shaik Basheed and Shaik Ismail in their statement Dt: 10-05-2016 stated that they were forced by the Mutawallis to attend to their personal work threatening them of dire consequences.

Sri Abdul Sattar S/o. Sri Shaik Abdul Ali working as clerk in the Dargah, Sri Shaik Bashed S/o. Shaik Dawood working as Watchman in the Dargah and Sri Shaik Ismail S/o. Shaik Shabbir working as Sweeper, in their joint statement given before the Enquiry Officer on 10-05-2016 stated they were appointed by the Waqf Board and being paid from the income of Dargah. The Mutawallis were utilizing their serviced for their personal work prior to their suspension.They also stated that they are being threatened of dire consequences if they refuse to do.

Charge No.VII: **FAILURE TO PROVIDE MINIMUM FACILITIES TO VISITORS AND DEVOTEES**

The Dargah at Peddakakani is a very famous religious place attractsing thousands of devotees from distance places. It is moral as well as functional responsibility of the Mutawallis to ensure that minimum basic facilities are provided to devotees. There are adverse reports in the media that the Dargah management had failed to provide the minimum facilities like drinking water, shade and toilets etc. The Mutawallies failed to realise their responsibility.

Smt.Shaik Silar Bee, Mutawalli, has filed her statement of defense on 27-06-2016, in the form of a sworn and signed affidavit. She has also submitted vakalathnama engaging an advocate along with defense statement. The explanation of the individual charge is as stated below.

CHARGE No.1: **Commission of Gross financial irregularities**

a) The delinquent denied of having barrowed any amount on the ground that the person from whom the amount was borrowed was not mentioned.

b) The Mutawalli contended that Bank Account No. 131110106540 is a Joint account in the name of (4) Mutawallis for joint operation and it is on behalf of the Dargah and that it is in existence since 2007.

c) The Mutawalli did not offer any pointed explanation to the lapses pointed out in dealing with Dargah funds and non maintenance of accounts in the proper form.

d) In respect charge 1(d) the Mutawalli explained that the expenditure shown in the account statements for the year 2011-12 and 2012-13 is as per custom and practice and denied of any wrong spending on any new expenditure.

e) The Mutawalli did not offer any explanation to the charge of engaging Sri Shaik Adam and himself on Payment of Rs. 6,000/- & Rs. 5,000/- PM respectively.

Charge No.II: Criminal Misappropriation and Cheating

a) The Mutawalli explained that the Muttawallis did not demolish the slab of Dargah and had in fact under taken the repairs as the slab of Dagrah was leaking and causing inconvenience on rainy days.

b) The Mutawalli denied the allegation of Muthawallies taking **advances** allotting shops.

Charge No.III: SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS

The delinquent explained in Paras 6, 7, 8 and 10 of his explanation that there is an arrangement of barry (Rotation) according to which Mujawars would attend to it for (21) days in a month while the Mutawallis attend to it for the remaining (9) days. He denied having taken remuneration more than 10% of the income. He contended that Muthawallis paid the salaries electricity bills and incurred expenditure on minor repairs and remuneration they received did not exceed 10%. He did not offer any explanation for not accounting the true picture of income derived by Dargah.

Charge No.IV: DEFRADING WAQF PROPERTY FOR WRONGFUL GAINS

The delinquent Mutawalli stated that the Mutawallies collected rents at the prevailing market rates and tenants are the persons having faith in Dargah and that it is not a commercial market.

Charge No.V: EXCERSING OF POWERS BEYOND EMPOWERMENT

The Mutawalli stated that Dargah Kareemullah Sha Nishani is only a hoarding and that is not located within the premises of Dargah Hzt Baji Shaheed (RA). She denied having given any permission for erecting the Nishan.

Charge No.VI: MISUSE OF PERSONS IN EMPLOY OF DARGAH

The Mutawalli denied of taking any services from the personnel of Dargah and denied the allegation.

Charge No.VII: FAILURE TO PROVE MINIMUM FACILITIES TOVISITORS AND DEVOTEES

The Mutawalli contended that maximum facilities were provided to devotees such as drinking water, shelter rooms, latrines, electricity, etc.

Besides the Mutawalli stated that Hundi amount of Rs. 8,77,480/- comprised of accumulated collections of (5) months and the same was deposited in Canara Bank. She further stated that said amount was withdrawn and used for different purposes. The Mutawalli contended that an enquiry was conducted by Inspector Auditor behind the back of Mutawallis without any notice and that it is concocted fabricated and unreliable. She also stated that an enquiry, inspection or survey conducted by Waqf Board Officers without any notice to the Mutawallis cannot be taken into consideration. She cited an enquiry report Dt: 15-01-2015 and disputed the present enquiry as without the authority of law. She finally said that the Waqf Board complainant failed to file any document as evidence before the Enquiry Officer and these facts should be taken into consideration. She denied violating Waqf Act 1995, more particularly provisions (a) to (k) of subsection (1) of Section 64 of the Waqf Act 1995.

ENQUIRY:

The enquiry officer fixed the enquiry on 02-09-2016 at Shadikhana Anjuman Islamia, Guntur and the delinquent was informed of date, time and place of enquiry in advance. She has attended the enquiry on 02-09-2016 at Guntur and gave a joint representation along with (3) other mutawallis stating that they had appointed an Advocate of Hyderabad to defend their case and requested to hold the enquiry at Waqf Board office, Hyderabad to facilitate their Advocate to be present at the time of enquiry. Her request to hold enquiry at Hyderabad was rejected on the ground that it would cause inconvenience to the local witnesses and She was informed accordingly. The Enquiry Officer has issued a notice fixing the next date of enquiry on 27-09-2016 at Shadhikhana Anjuman Islamia, Guntur making it clear that it was a final opportunity. The delinquent attended the enquiry. She filed a joint application stating that the copies of the statements recorded at the time of enquiry are needed for their lawyer to cross examine the witnesses and requested to furnish the copies of statements. As requested by the delinquent, copies of statements recorded during the enquiry on 27-09-2016 were supplied to him through notice dated: 06-10-2016 and she was informed

that an enquiry would be held in the case on 18-10-2016 at Guntur and it would be the final opportunity. She attended the enquiry and filed a joint representation along with (3) other Muttawallis seeking further time on the plea that their Advocate was pre-occupied at Hyderabad in another case.

The Enquiry Officer observed that Smt.Shaik Silar Bee the delinquent Mutawalli, is not keen to participate in the enquiry on one pretext or the other. Since the charges are based on the recorded evidence, and now that she sought another opportunity without participating in the enquiry despite being made aware it is the last chance. The Enquiry Officer considered it necessary to expedite the processes of the enquiry on merits without further loss of time. In view of the persistent non-cooperation of the Muttawalli, she came to conclusion that the Muttawalli is not keen to participate in the enquiry and closed it. She was approaching the Court on one side and seeking postponement of the case on another side. The Enquiry Officer has closed the enquiry.

After closing the enquiry, the E.O has examined the case and came to following conclusions:

Charge 1 (a)

The delinquent Mutawalli denied the allegation. It is seen from the paper(press) statement issued by Smt.Shaik Silar Bee on 07-03-2014 that an amount of Rs. 5,50,000/- was barrowed to meet the expenses of Urs festival during 2013-14 and the same was obtained by giving a pro-notes and Bank cheques. The said statement was signed by the delinquent along with other Mutawallis Akbar Ali, Shaik Mahaboob Alli and Smt.Shaik Silar Bee and Sri Ghouse Mohiuddin. It is further seen that the said Mutawallis have also enclosed copies of these paper statement to the District Collector, Guntur on 10-03-2014. It is further seen from the petition dated 05-03-2014 from Smt.Shaik Silar Bee addressed to District Minority Welfare Officer, Guntur that (4) Mutawallis including herself had barrowed Rs. 5,50,000/- on interest for Urs festival from one Shaik Zaker Hussain and issued cheques from account No. 1311101019540 of Canara Bank. The evidence so available in record is incontrovertible and it is a fact admitted by herself. Hence the charge is proved conclusively.

Charge 1 (b)

The Mutawalli was charged for opening and operating Joint Account No. 1311101019540 in the Personal names of (4) Mutawallis including herself without the permission of the Higher Authorities, The rules and procedure of management of

finance and accounts require the Bank account to be in the name of the Institution and it should be operated by the persons authorised by the Institution and its Higher Officials as the case may be. In the instant case the delinquent Mutawalli admitted that (4) Mutawllis are operating accounts in their personal name. She is silent over the allegation of not obtaining permission from the higher authorities. Admittedly, it is an account in the personal names of (4) Mutawallis to operate the finances of Dargah and without permission of the Board and it is violation of the rules and procedure. The Charge is proved conclusively.

Charge 1 (c)

The Mutawalli is charged of committing grave irregularities in dealing with Dargah funds and failure to maintain accounts in the proper form. The Charge is based on the Audit Report of the year 2011-12 prepared by M/s K/V Brahmum & Co , C.A. The auditor in their final comments pointed out omission or commissions, in accounts, listed from (i) to (vii) of charge 1(c) of the AOC.

The lapses include serious irregularities like incurring the entire expenditure by cash, instead of Cheque payment, not depositing the Hundi collections in the bank promptly, not maintaining minute books and not producing evidence for certain items of huge expenditure. The Mutawalli did not offer any pointed explanation to the charges leveled. The eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to audit, on account of which transactions shown in the Books were not confirmed by the Auditors. The entire financial and account maintenance by the Mutawallis was arbitrary and without authority and the Audit did not confirm the transaction of the institutions. It is evident that Muthawalli treated the Dargah as their personal property. The Charge is based the Audit report for the year 2011-12 and it is an authentic record which has to be relied. Thus the delinquent Mutawalli has violated provisions of Section 46,50 (a) (b) and (e) of Waqf Act, 1995 and Rule 20 (6)(II)(IX) of Waqf Rules 2000, and Regulations 52 and 53 of Waqf Regulations 1963. She has also violated the instructions laid down in his appointment orders dated: 10-08-2006. Hence the charge is proved.

Charge 1 (d)

It was alleged that irregular and un-authorised expenditure on works not connected with dargah was incurred. The charge is based on Audit Reports for the year 2010-11. 2011- 12 and

2012-13 filed by M/s K. V. Brahmum & Co. CA, according to which, the following irregular and unauthorized expenditure was incurred towards items not connected with the institutions.

1.	2010-11	Rs. 9,31,664-00
2.	2011-12	Rs. 14,48,566-00
3.	2013-14	Rs. 14,95,076-00
	Total	Rs. 38,75,006-00

The Muthawalli explained that the expenditure was incurred as per custom and practice and denied any wrong spending. As a responsible Mutawalli, she is required to follow the rules and procedure and healthy traditions in the best interest of the institution. Customs and traditions unless not codified do not merit compliance. In case there are customs and traditions which the Mutawalli considers necessary to follow, she should have brought them to the notice of the Board and obtained clearance. The Mutawalli is evidently taking shelter behind the customs and traditions to justify the irregular expenditure. Her contention is not acceptable. Hence the charge is proved.

Charge 1 (e)

It is alleged that Sri Syed Adam, Sri Ghouse Mohiddin were engaged to prepare Dargah accounts without obtaining permission from the Waqf Board and they were paid Rs. 6000/- and 5000/- PM respectively. The delinquent did not offer any explanation to the charge. It is seen from that the delinquent Muttawalli along with (3) other Mutawallis issued a paper statement on 10-03-2014 under their own signatures to which they enclosed a list of salary bills signed by delinquent himself for the months of November 2014 and February 2014, showing payment made to Sri Syed Adam Saheb @ Rs. 6000/- PM. It is a document prepared and signed by him which cannot be denied. It is also evident from the defence statement of Sri Shaik Akbar Ali Mutawalli that Shaik Ghose Mohiuddin was also involved in preparation of accounts of Dargah and was paid a remuneration of Rs. 5,000/- per month with the consent of all Muthawallis. The payment is thus established to be a fact. It is further seen from the defence statement of Sri Shaik Akbar Ali another Mutawalli that Shaik Ghouse Mohiuddin prepared the accounts of Dargah and received a remuneration of Rs. 5000/- per month. Thus the delinquent Mutawalli is accountable for lapses. She has misused the powers violating the provisions of Waqf Act 1995 and Waqf Rules 2000 and, the conditions laid down in her appointment orders. Therefore, the charge is proved.

Charge II (a)

It is alleged that the delinquent Mutawallis had exhibited expenditure in the accounts of Dargah for the construction works actually carried out and paid by Dr. S. Khader Basha, as if the said works were executed by Mutawallis. The Charge is based on the statement Dt: 22-04-2014 of Dr. Khader Basha who stated that he is a devotee of Dargah and that the slab over the Dargah was re-laid as the old one was leaking and the entire work was carried out by him with his own money. He also stated, he had constructed a new Mosque in place of the old one and constructed a shed and residential accommodation for Pesh Imam. He also deposed that all these works were carried out with his money and only after obtaining permission from the Mutawallis.

It is further alleged that an amount of Rs. 2,62,650/- was spent towards Mosque store room construction, Mosque Pesh Imam room construction of Mosque repairs and Mosque Shed construction as pointed out in audit reports filed by M/s K V Brahamum CA. The Mutawalli is totally silent on the evidence cited in the AOC. The construction and repairs under taken by Dr. Khader Basha have been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement Dated: 10-05-2016, which is not disputed, It is thus seen that all the works done by Dr. Khader Bash, at his cost are illegally appropriated by the delinquent Muthawallis who charged the expenditure to Dargah account and misappropriated the huge sum of money belonging to the institution. She is responsible for violating the provisions of Waqf Act 1995 and Rules 2000 and the conditions laid down in her appointment orders. Thus, the charge is proved.

Charge II (b)

It is alleged that Smt.Shaik Silar Bee, Mutawalli, together with Mutawallis, Shaik Basheed, Shaik Mahaboob Ali and Shaik Akbar Ali entered into an agreement with one Sri Pathan Mastan Vali S/o. Meera Saheb on 26-03-2013, to lease out Baji Baba Hotel in the Dargah premises for Rs. 40,000/- from 01-11-2013 to 31-07-2014. It is further alleged that Shaik Ghouse Mohiuddin, Mutawalli together with other Mutawallis Shaik Basheed, Shaik Mahaboob Ali, Shaik Akbar Ali, Shaik Silar Bee and Shaik Galib entered into an agreement on 29-03-2013 with One Sri Vuyyala Koteswara Rao leasing over the rights of goats sacrificing for Rs. 13,000/- for a period of one year commencing from 08-08-2013. It is further alleged that Shaik Ghouse Mohiuddin, Mutawalli entered into an agreement on 21-11-2013 with Sri Shaik Dawood S/o. Meera Sahib for Rs. 25,000/- for a period of (14) months for running of HP Gas plant in the Dargah premises. The delinquent denied the allegations. The allegations are based on

the agreements entered into by the Mutawllis and the said documents are on record and the said documents are duly signed by the delinquent Mutawllis on respective dates. She has not obtained any permission from the Waqf Board either to lease out or enter into agreements thereby violating the provisions of Section 51 of Waqf Act, 1995 and Rule 20 (4) (e) of the Waqf Rules 2000. Hence the charge is proved.

It is further alleged that the Mutawalli along with other Mutawallis collected following amounts from the following (3) persons towards development fund for Dargah.

S.No.	Date	Report No.	Name of the Donor	Amount in Rupees
1.	18.03.2011	12	Sri Shaik Galib Shaheed	5,000-00
2.	19.11.2011	04	Sri Galisa	5,000-00
3.	18.03.2011	07	Smt. Shaik Mahboob Bee.	5,000-00
			Rs.	15,000-00

It is also alleged that the above amounts were neither accounted for nor the Board was intimated of the collections. The Mutawalli is totally silent over this allegation and did not offer any explanation except denying that the allegation as false. It is seen from the records that there are (3) cash receipts of Dargah Management of the above given numbers and descriptions bearing signatures of the delinquent Mutawlli along with other corroborating the fact that the alleged amount have indeed been received by the Mutawallis. It is an undeniable allegation based in the recorded evidence. Thus it is proved conclusively beyond reasonable doubt that the Muthawalli has acted without any authority and misappropriated the amount.

<u>Charge III</u>

It is alleged that the delinquent Mutawalli suppressed the actual income of the Dargah and indulged in misappropriation in that.

a) She did not bring it to account the income generated on sale of items like Taveez, Bandish, Goat Skin, Head Shave, Coconut etc on the day of her "Bari" (Rotation) and thus misappropriated the Dargah income.

b) M/s K. V. Brahmum C.A have audited the accounts of Dargah for 2010-11, 2011-12 and 2012-13. The accounts prepared by them did not show any income towards Sale proceeds of lemon, Bandish and Vehicle Pooja. The income derived on these items has not at all been brought to account, at all.

c) Income by sale of Taveez per annum was shown as in the account
2010-2011 Rs. 82,460/-

2012-2013 Rs. 93,415

After the Management of Dargah was taken away from Mutawallis after their suspension, the income derived is Rs. 1,18,46,248/- for the subsequent period 4/2014 to 3/2016 i.e, for the two years working at over more than Rs.59,00,000/- per annum on an average. Thus huge sums of actual revenue accrued to Dargah on these items was suppressed.

d) The Income of Dargah when under their management was shown as below:

Year	Rupees
1. 2010-2011	Rs. 23,53,910/-
2. 2011-2012	Rs. 24,03,492/-
3. 2012-2013	Rs. 26,45,465/-

The income of Dargah under the Direct Management of the Board after suspension of the Mutawallis is Rs. 2,56,59,772/-for Two years from 15-04-2014 to 31-03-2016 which is approximately Rs. 1,28,30,000/- per annum.

The delinquent Mutawalli did not offer any pointed explanation to any of the above specific allegation leveled against her. In the light of incontrovertible evidence of audited accounts, it is seen that there has been abnormal difference between the income derived by Dargah under the management of the Mutawallis and that accrued under direct management. The Enquiry Officer concluded that the Muttawalli suppressed the actual income of the Dargah and huge sums of money went unaccounted for during their tenure which is many times more than the 10% remuneration they are entitled to. The Charge is proved

conclusively on the strength of the record evidence beyond all reasonable doubts.

Charge IV

The Mutawallis collected rents for structures within the Dargah premises leasing them out for shops, as long as they were managing the affairs of the Dargah. The same Muthawllies have raised the plea that the land on which shops are located is a poramboke land of Government and not the Dargah property. They were therefore, alleged of adopting double standards to deprive the Dargah of the possession, control and administration of the structures over the land and of acting at cross purposes with the Dargah interest.

The Mutawalli did not offer any pointed explanation except saying that rents are being collected at market rate. It is seen that the Mutawallis are fully conscious of the fact that the land on which the shops are located is under the control of the Dargah and have in fact been collecting rents from the lessees until they were managing the Dargah. The statements of Shaik Abdul Sattar and the statement of Bibijan and others dated 10-05-2016 reveals that the shops were managed by Mutawallis until they were managing the Dargah and they also kept some shops in their control. The statements of these witnesses were communicated along with AOC, but the delinquent is silent over the issue and did not offer any explanation to the allegation. It is therefore held that the charge is proved.

Charge V

The Mutawalli permitted one Sri Pathan Mahboob Subhani to raise structure in the name of Kareemullah Sha Nishani within the Dargah premises. The delinquent explained that no Dargah Kareemullah Shah Nishani is located within the Dargah of Syed Baji Shaheed Aulia and that no permission was given to erect the Nishani. It is seen from the record that the Mutawallis Ghouse Mohiuddin, Shaik Mahboob Ali and Shaik Basheed had given in writing on 04-04-2010 that Sri Pathan Mahboob Subhani is constructing a structure in the name of Dargah Hazrath Kareemullah Sha Quadri and that they had not complained against it as the site was outside the Hazrath Baji Shaheed Dargah. As against this, the same Mutawallis submitted a representation to the Waqf Board on 21-06-2012 stating that Kareemullah Shah Quadri Nishani is causing financial loss diverting the devotees and requested to take possession of the Nishani as it was constructed on the Dargah Hzt. Baji Shaheed(RA).

Sri Pathan Mahboob Subhani who constructed the Nishani also deposed on 10-05-2016 that he had constructed the Kareemullah Shah Quadri Nishani with the consent of Mutawallis Shaik Basheed, Shaik Ghouse Mohiuddin and Shaik Mahaboob Ali. The very fact that the Mutawallis remained silent when the construction was going on speaks volumes of their complicity and collusion. The Enquiry Officer opined that the delinquent Mutawallis had deliberately allowed the illegal construction over the land under the control of the Dargah. They have thus exercised powers beyond their competency betraying the trust reposed in them. The Charge is therefore, proved beyond doubt.

Charge VI

It is alleged that though there are (13) persons in the employment of Dargah, all the employees were not found on duty when the auditors cross checked the attendance during audit. It is further alleged that the Mutawallis forced some employees to attend to their personal work threatening them of dire consequences. It is further alleged that the delinquent Mutawalli is utilizing the services of Shaik Ismail. The delinquent Mutawalli did not offer any explanation and silent over the issue even though the evidence Dt: 10-05-2016 of Sri Shaik Abdul Sattar, Shaik Basheed, Shaik Ismail was communicated. Under the circumstances, it has to be deemed that the delinquent did not have any explanation to offer. The charge, therefore, stands proved.

Charge VII

It is alleged that adequate basic facilities are not provided by the Mutawallis at the Dargah visited by thousands of devotees. The delinquent Mutawallis simply said that they have provided maximum facilities like drinking water etc., and denied the charge.

It is seen from the records that there is adverse coverage of the poor facilities available at the Dargah for devotees reported in the daily newspapers dated: 07-01-2014 and there is a complaints dated: 09-01-2014 from the devotees of practically no facilities for the devotees. The simple denial of the charge by the delinquent without offering any explanation in defense seen in the context of compliant petition and the media coverage goes to prove that the facilities were not satisfactory at the Dargah were utterly inadequate. Therefore, the charge is proved.

Summing up his conclusion, the Enquiry Officer stated that the delinquent Muthawalli, during her tenure as Mutawalli of the Dargah displayed scant regard for the responsibility given to him and indulged in acts prejudicial to the Dargah interests which she is expected to protect. She failed to perform her duties in a transparent manner and to enhance the image of the Institution. She acted arbitrary without caring for the rules and procedure as if she is managing her personal property. He finally concluded that all the charges leveled against the Muttawalli stand conclusively proved.

The competent authority examined the findings of the Enquiry Officer with reference to the article of charges, statement of defense together with material available on record and ordered to issue show-cause notice for removal of the Muttawalli. Accordingly the show-cause notice was issued vide reference 7th cited asking the Muttawalli to show cause why the loss to the institution shall not be recovered from her.

She has submitted further explanation to the show-cause notice vide reference 8th cited. Her further explanation has been examined and discussed below.

The further defense statement submitted by Smt.Shaik Silar Bee in reply to the show-cause notice issued has been examined by the Competent Authority together with the Article of charges, the defense statement filed by the delinquent Muttawalli, evidence available on record and the enquiry report. The competent authority held that the charges leveled against the Muttawalli stand proved conclusively beyond reasonable doubt in as much as all the allegations are based on the recorded evidence as mentioned in the Article of Charges, and felt necessary to recover the loss caused to the institution from Smt.Shaik Silar Bee, to meet the ends of justice, since her term as Muttawalli, has been expired by 16-04-2016, as the Muttawalli is guilty of grave financial irregularities. It is also felt necessary that such person should not be allowed access to institutions like Hazarat Baji Shaheed (RA), Peddakakani. Hence, following orders are passed.

ORDER:-

The services Smt. Shaik Silar Bee, D/o. Sri Shaik Mastan, Muthawalli, Dargah Hzt Baji shaheed (Rh), Aulia at Peddakakani, Guntur District are deemed to have been removed on 16-04-2016 u/s 64 of Waqf Act 1995 read with rule 24 of waqf rules 2000 with liability to replenish loss caused to the institution.

She is directed to acknowledge receipt of these proceedings on the duplicate copy with dated signature and re-submit the same immediately.

9.8.2017

Sd/-.,

Chief Executive Officer,
Andhra Pradesh State Waqf Board,
Vijayawada.

To,
Smt. Shaik Silar Bee, D/o Sri Shaik Mastan,
Muthawalli (Under Suspension)
Dargah Hzt Baji Shaheed Rh Aulia,
Pedakakani Guntur District, (in duplicate) and
Through Inspector Auditor Guntur District.
(By Registered Post Acknowledgement/Due)

Waqf Board, Form-6

REMOVAL FROM THE SERVICES OF MUTHAWALLI OF SRI. SHAIK AKBER ALI S/O SRI SHAIK MAHABOOB ALI AT DARGAH HZT. SYED BAJI SHAHEED AULIA RH. AT PEDDAKAKANI (V) AND (M), GUNTUR DISTRICT. -

Ref:-
1. A.P.S.Waqf Board Proc. NO.105/GNT/2013/Z.V, dated: 21-12-2015.
2. A.P.S.Waqf Board Proc. NO.105/GNT/2013/Z.V, dated: 17-05-2016.
3. AOC issued by the Enquiry Officer in Rc. No. ENQ/105/GNT/2013/ Z- V, Dated: 04-06-2016.
4. Defence statements submitted by Sri Shaik Akber Ali,Dt:29-06-16.
5. Findings of the Enquiry Officer submitted vide Rc.No. ENQ/105/GNT/2013/Z-V (B), Dated:05-ll-2016.
6. Orders dated: 21-06-2017 issued by the Hon'ble High Court Hyderabad in W.A. No. 775/2017 in W.P.No.8707/2016 and 13764/ 2014.
7. AP State Waqf Board Show-Cause Notice Issued Vide F.No.l05/GNT/ T/2013/Suppl, dated. 03-07-2017.
8. Explanation dt. 19-07-2017 submitted by the Muttawalli in reply to the show-cause notice.
9. Orders of the Competent Authority Dated:08-08-2017

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F.NO.105/GNT/2013/Z.V-, The A.P State Waqf Board in their proceedings No.l05/GNT/2013/Z.V, dated: 21-12-2015 had appointed Sri Saheb Khan, Executive Officer as Enquiry Officer in the case of disciplinary action initiated against Sri Shaik Akber Ali S/o Sri Shaik Mahaboob Ali, Mutawalli under suspension for his alleged omissions and commissions as Muthawalli of Dargah Hzt. Baji Shaheed (RA) Peddakakani, Guntur District. Subsequently, the Board has extended the time given for enquiry in the reference 2nd cited.

Consequent to the said appointment the Enquiry Officer has issued statement of Article of Charge framing the following charge against Sri Shaik Akber Ali, Muthawalli under suspension vide reference 3rd cited. Copies of the relevant documents to substantiate the allegations were also supplied along with Article of Charges.

Charge No.1: **Commission of Gross financial irregularities**

Sri Shaik Akber Ali S/o. Sri Shaik Mahaboob Ali, while functioning as Mutawalli of Dargah Hzt Syed Baji Shaheed Aulia(RH), Peddakakani (V & M), Guntur District, from the date of appointment to date of suspension, committed the following irregularities.

a) An amount of Rs. 5,50,000/- was borrowed by the Mutawallis to celebrate Urs festival during 2013-14 without obtaining the necessary permission from the state Waqf board.

b) Opened account No.131110109540 of Canara Bank, Peddakakani Branch in the personal name for conducting transactions of the institution without permission of the Higher Authority .

c) Committed the following grave irregularities in dealing with Dargah funds and failed to maintain accounts in proper form.

i) All expenditure payments were paid by cash instead of cheque payment.

ii) Hundi collections which are income accrued to Dargah were not deposited in the Bank as and when the Hundies were opened.

iii) Minutes Book was not produced before the Audit authorities.

iv) Authorised eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to Audit, on account of which, the transactions shown in the Books were not confirmed by the Auditors.

v) Transactions are not made through Bank Accounts to establish the genuineness of the payments.

vi) No evidence is produced for the conduct of Sunday Amavasya Festival involving an amount of Rs.1,11,695/-

vii) The expenditure of Rs.21,000/-towards repairs to Borewell and the expenditure of Rs.82,000/-for Tati Aakula Pandri, are unreasonable.

d) Incurred irregular and unauthorised expenditure on works not connected with Dargah Hzrath Syed Baji Shaheed Aulia(RA) Peddakakani.

According to Audit Report 2010-11, 2011-12 and 2012-13, the following irregular and unauthorised expenditure was incurred towards items not connected with this Institution.

A) As per the Audit Report by M/s. K.V Brahmum and Co., CA, Guntur for the year 2010-11.

1	Audit Fee	37,585.00
2	Haz Janapadu Urus Celbr.	18,825.00
3	Moharam Festival expenses	15,525.00
4	Hzt. Syed Baji Ouliya chill festival	57,825.00
5	Depreciation	2,93,280.00
6	Milainabi festival	32,300.00
7	Hazrath Kali Mastanvali Urus	27,000.00
8	Annadanam	92,405.00
9	Shab-e-Barath	5,800.00
10	Balwid Festival	43,065.00
11	Baba Barasal(Chilla) exp	1,19,955.00
12	Miscellaneous expenses	64,149.00
13	Campus levelling charges	1,03,950.00
14	Janapadu bab Nishary constructor	20,000.00
	Total	**9,31,664.00**

B) As per Audit Report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2011-12.

1	Sunday Amavasya Festival Annada	1,84,895.00

2	Perecherla Ghan Saidabad Nishan	27,675.00
3	Ameenullah Baba Nishan Exp A/c	63,450.00
4	Sheb-e-Baratth Festival Exp A/c	8,150.00
5	Audit Fee A/c 2010-11	37,585.00
6	Bakrid Festival Exp A/c	77,500.00
7	Hazt. Syed Janpadu Saida Urs Exp.	43,072.00
8	Rapairs	83,875.00
9	Hazt. Syed Karimulla Baba Urs Exp	46,200.00
10	Hazt. Khader Vali Baba Urs Exp A/c	81,000.00
11	Tatakula Pandiri making exp A/c.	82,000.00
12	Miscellaneous expenses	28,895.00
13	Road Formation	49,000.00
14	Repair expenses	83,875.00
15	Moharram Festival expenses	9,000.00
16	Depreciation	2,82,749.00
17	Red Rose flowers	61,350.00
18	Electrical Repairs	47,595.00
19	Gravel Expenses	1,50,400.00
	Total	**14,48,266.00**

Waqf Board, Form-7

C) As per Audit report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2012-13.

1	Fhakuruddin Baba Urs Celebrati	8,000.00
2	Hazt. Syed Khaja Garibul Namaz	86,250.00
3	Darga Staff Salaries A/c	6,42,000.00
4	Sheb-e-Barath Festival Exp A/c	2,700.00
5	Audit Fee A/c 2011-2012	49,590.00
6	Baji Baba Chilla Expenses	44,160.00
7	Bakreed Festival	18,000.00
8	Hazt. Karimulla Bab Urs Expenses	6,200.00
9	Janapadu Baba Urs Exp	10,500.00
10	Miladun-Nabi Festival Expenses	5,400.00
11	Syed Karimulla Bab Urs Expenses	59,300.00
12	Syed Mahaboob Subhani Garmy	63,685.00
13	Ameenulla Bab Urs Celebratior	32,500.00
14	Depreciation	3,21,521.00
15	Audit Fee A/c 2012-2013	42,570.00
16	Ameenulla Bab Nishan Exp	51,400.00
17	Loans repaid	51,300.00
	Total	**14,95,076.00**

e) Sri Sk. Adam and Ghouse Mohiuddin are engaged to prepare Dargah Account without obtaining permission from the Waqf Bard. Paying Rs. 6,000/- and 5,000/- PM respectively and were paid accordingly.

Charge No.II: Criminal Misappropriation and Cheating

a) Dr. S. Khader Basha, MBBS ; Rukhiya Clinic, came forward with an offer to demolish the leaking roof (slab) of the Dargah and lay a new slab at his cost. Dr. S. Khader Basha in his statement Dt: 22-04-2014 stated that he had consulted Mutawallis and obtained their oral permission to take up the construction and had accordingly constructed a new Mosque in place of the Old Mosque, with an adjoining Shed, and also a residence for Pesh Imam with a Tin Roof. Further he stated that as the leakage in the roof over the Dargah was inconveniencing the devotees, he laid a new slab and also constructed the Dome over the Dargah. He also said that the other works like fixing red tiles and platform for devotees to stay and a wall towards the railway track were also constructed by him with his own money. These facts have also been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement dt: 10-05-2016.

It is seen from the Audit Reports filed by M/s K. V Brahmum, C.A, Guntur that an amount of Rs. 2,62,650/- was incurred during the following years for the items noted against each.

1. Audit report for 2010-11-	1. Mosque store Room	- Rs. 14,550
	2.Mosque Pesh Imam Room Construction	- Rs. 40,000
	Total	Rs. 54,550
2. Audit Report for 2011-12 -	1. Mosque repairs	- Rs. 85,500
3. Audit report for 2012-13	1. Mosque repairs	- Rs. 19,000
	2.Mosque Shed Construction	- Rs. 1,03,600
	Total	Rs. 1,22,600
	G.T	Rs. 2,62,650

The Mutawallis have thus exhibited the expenditure in Accounts of Dargah for the works carried out by others as if the said works were

executed by them and misappropriated the amount cheating the institution.

b) Sri Shaik Ghouse Mohiddin Mutawalli executed an agreement on 21.11.2013 with Shaik Dawood S/o. Meera Saheb for H.P Gas service taking an advance of Rs. 25,000/- and a deposit of Rs. 9,000/- totaling Rs. 34,000/- Sri Shaik Basheed, Sri Shaik Mahaboob Ali, Sri Shaik Silar Bee, Sri Shaik Akbar Ali, Sri Shaik Galib have entered into an agreement on 29-06-2013 with Sri Vuyyala Koteswar Rao S/o. Venkateswarlu for a lease of permitting slaughter of goats collecting Rs. 13,000/-. Sri Shaik Basheed S/o. Shaik Mohiuddin, Shaik Mahaboob Ali Sri Shaik Akbar Ali leased out a shop by executing an agreement Dt: 26-03-2013 with Sri Pathan Mastan Vali S/o. Meera Saheb for running a Hotel for a period of (1) year collecting an amount of Rs. 40,000/- + 6,000/- totally Rs. 46,000/- all the agreements were executed without permission of the Board and amounts collected were not brought to the accounts of the institutions. They do not find place in the audit reports also. The Mutawallies are not competent to enter into any lease agreements without prior permission from the Board. Further they have collected the following sums under acknowledgements.

1. Receipt No. 12, Dt: 18.03.2011, Sri Shaik Gali Shaheed Rs. 5000/-
2. Receipt No. 4, Dt: 19.11.2011, Sri Galeesa Rs. 5000/-
3. Receipt No. 7, Dt: 18.03.2011, Smt Shaik Mahboob Bi Rs. 5000/-

The sums were neither accounted for nor the fact intimated to the Board. The Mutawallies are not authorized to collect the money on any such items. They have thus, exercised powers beyond competency and acted without any authority and misappropriated the amount.

Charge No.III: SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS

There is practice of sale of Taveez, Bandish, Skin, Head Shave, Broken Cocunut, Chappal Stand, Fowl cutting, Hire, Tal- Bazari Shops, Gulf Cloth, Hundi Collections etc., at the Dargah premises.

As per Board Memo No. B3/24/GNT/2006/Z-IV, Dt: 18-12-2006 an arrangement was made for the sale of these items by Mujawars and Mutawallies for (21) days and (9) days in a month respectively. The income generated on sale of the above item during their 'Barries' (rotation) was not accounted properly and credited to the institutions.

According to audited Accounts prepared by M/s. K. V Brahmum CA, Guntur , the items of sale proceeds of Lemon, Bandish and vehicle pooja have no at all been brought to account. The income derived by sale of Taveez, per annum was shown as Rs. 82,460/- and Rs. 93,415/- for the years 2011-12 and 2012-13 respectively. As against this, the Institution, under Direct management, (after the suspension of Muthawallis) derived an income of Rs. 1,18,146,248/- for two years ie., for the period from 4/2014 to 3/2016 more than Rs. 59,00,000/- P.A, on an average.

Further, as per the Audited annual statements of accounts, by M/s. K.V Brahmum CA, the Muthawawallies have shown the following total income to Dargah during the years 2010-11 to 2012-13.

1. Year	2010-11	Rs. 23,53,910
2. Year	2011-12	Rs. 26,45,465
3. Year	2012-13	Rs. 24,03,492

The Waqf Board has taken over the institution under Direct Management and the income derived for (2) years from 15-04-2014 to 31-03-2016 is Rs. 2,56,59,772/- i.e, approximately Rs. 1,28,30,000/- per annum. There is reason to believe that the Mutawallies were suppressing huge sums of Dargah income and misappropriated the same.

The Mutawallies instead of availing 10% of the income as their share, have not only taken 10% of the accounted income , but also misappropriated huge sums.

Mutawallies, though charged with the responsibilities of Dargah management failed to act in a transparent manner nor sought directions from the Board for foolproof conduct of transactions.

Charge No.IV: DEFRAUDING WAQF PROPERTY FOR WRONGFUL GAINS:

There are (51) structures (shops) within the Dargah premises used by persons for vending coconuts, fancy goods, sweets, tea, etc., All the structures are provided electric power on the service connection in the name and Account of Dargah. The Mutawallis were alleged to have taken control of some structure without paying any rent using them for their personal use or to sub-let. The Mutawallis were collecting the rents of the said structures until their suspension treating the area as Dargah land but are now coming up with the plea that the land on which the structures are located is Government Poram Poke, to deprive the Dargah of the possession, control and administration of the structures and the land. Their actions are at Cross purposes with the Dargah interest and prejudicial to the institution.

Charge No.V: EXCERSING OF POWERS BEYOND EMPOWERMENT:

The Mutawallis are not vested with the powers of issuing NOC or permission to any one for raising any permanent structure on the land belonging to Dargah. As against this, the Mutawallis permitted One Sri Pathan Mahboob Subhani to raise a structure in the south east of Dargah in the name of Kareemullah Shah Nishani as is evident from the statement of Sri Ghouse Mohiuddin, Sri Basheed and Sri Mahboob Ali, dated: 04-04-2010. Thus the Mutawallis exercised powers beyond their competency.

Charge No.VI: MISUSE OF PERSONS IN EMPLOY OF DARGAH:

According to Audit Report 2011-12, there are (13) persons in the employment of Dargah. All the employees were not found on duty, when Auditors cross checked their attendance during Audit.

Sri Shaik Abdul Sattar, Shaik Basheed and Shaik Ismail in their statement Dt: 10-05-2016 stated that they were forced by the Mutawallis to attend to their personal work threatening them of dire consequences.

Sri Abdul Sattar S/o. Sri Shaik Abdul Ali working as clerk in the Dargah, Sri Shaik Bashed S/o. Shaik Dawood working as Watchman in the Dargah and Sri Shaik Ismail S/o. Shaik Shabbir working as Sweeper,

in their joint statement given before the Enquiry Officer on 10-05-2016 stated they were appointed by the Waqf Board and being paid from the income of Dargah. The Mutawallis were utilizing their serviced for their personal work prior to their suspension. They also stated that they are being threatened of dire consequences if they refuse to do.

Charge No.VII: **FAILURE TO PROVIDE MINIMUM FACILITIES TO VISITORS AND DEVOTEES**

The Dargah at Peddakakani is a very famous religious place attracts thousands of devotees from distance places. It is moral as well as functional responsibility of the Mutawallis to ensure that minimum basic facilities are provided to devotees. There are adverse reports in the media that the Dargah management had failed to provide the minimum facilities like drinking water, shade and toilets etc. The Mutawallis failed to realise their responsibility.

Sri Shaik Akber Ali, delinquent Muttawalli had submitted his explanation as stated below:

He did not offer any pointed explanation to any of the charges leveled against him. He explained that he was appointed as Muttavalli on 30-06-2010 and served as Muttawalli of Darga Shaheed (RA), Peddakakani for a period of 3 years 9 months. He filed his explanation in Telugu language. He said that Sri Shaik Basheed, Sri Shaik Ghouse Mohiuddin and Sri Shaik Mahaboob Ali were already functioning as Muttawallis of Darga earlier to his appointment and he was the fourth Muttawalli. He stated that Sri Shaik Ghouse Mohiuddin and Sri Adam of Guntur have been preparing the accounts always and he fixed his signature after his senior Muttawalli signed the said documents. He further explained that an amount of Rs.5,000/- was paid to Sri Shaik Ghouse Mohiuddin (Muttawalli) and a sum of Rs.6,000/- was paid to Sri Syed Adam for preparing the accounts every month with the consent of all Muttawallis. He said that he studied only upto 6th class and totally not convergent with the English language and he signed the papers only after the other (3) Muttawallis signed. He did not dispute any charge nor denied any. He did not either accept any allegation. He said that, he attended the Dargah every day and attended to his duty regularly. The delinquent Muttawalli submitted that he is poor and ever since he was placed under suspension, he is eking his livelihood on hard labour. He further said that, he cannot afford to come to

Hyderabad for enquiry. He finally pleaded to excuse him even if there was any inadvertent irregularity on his part.

Enquiry: An enquiry was held on 2-9-2016 at Guntur. He attended the enquiry and filed a petition stating that he did not challenge any of the proceedings of the Waqf Board and that he is very poor and in financial difficulties. He stated that the management of the Dargah is good after it is taken over by the Waqf Board. He requested to release his percentage (remuneration) of his share as Muttawalli. He gave a statement on 2-9-2016 requesting to finalise the case on the basis of his defense statements and representation submitted, and he has nothing more to say during the enquiry. Further he has filed petitions on 15-9-2016, 21-9-2016 and 24-9-2016 addressed to Enquiry Officer, stating that he will abide any decision taken by the Waqf Board and requested to release his remunerations pleading critical financial condition. He had also requested to hold the enquiry at Guntur, as he is poor and unable to attend the enquiry at other places. He did not want to cross examine the witnesses examined during the enquiry on 27-9-2016, and he gave in writing that he does not want to cross examine. The statement of witnesses examined during the enquiry on 27-9-2016 were supplied to him asking to attend the enquiry fixed on 18-10-2016. He did not attend the enquiry on 18-10-2016. It is, thus, clear that the delinquent Muttawalli is not keen to participate in the enquiry, despite being made aware that it is the last chance. The Enquiry Officer has closed his enquiry and submitted his findings on the merits of the case vide reference 5th cited.

The Enquiry Officer concluded his findings on the merits depending upon the evidence available on record. Since, all the allegations are supported by evidence, the Enquiry Officer inclined to hold all the charges proved beyond reasonable doubt. Further, the Enquiry Officer opined that the financial conditions and he is being uneducated, poor does not absolve him from collateral responsibility. The charges leveled against him stand proved.

The Competent Authority examined the findings of the Enquiry Officer, with reference to Article of Charges, statement of defense together with available record and ordered to issue show-cause notice for removal of the Muttawalli. Accordingly, a Show-cause Notice was issued vide reference 7th cited asking the Muttawalli to show cause as to why he should not be removed from the services of Muttawalli in terms of

Section.64 of A.P.Waqf Act, 1995 and Rule.24 of Waqf Rules, 2000.

The delinquent Muttawalli has submitted further written statement in reply to the show-cause notice, which has been examined and discussed below:

The further defense statement submitted by Sri Shaik Akber Ali in reply to the show-cause notice issued, has been examined by the competent authority together with the Article of Charges, the defense statement filed by the delinquent Muttawalli, evidence available on record and the enquiry report. The competent authority held that the charges leveled against the Muttawalli stand proved conclusively beyond reasonable doubt in as much as all the allegations are based on the recorded evidence as mentioned in the Article of Charges and felt necessary to remove Sri Shaik Akber Ali from the services of Muttawalli to meet the ends of the Justice as the Muttawalli is guilty of grave financial irregularities. It is also felt necessary that such person should not be allowed access to institutions like Hazarat Baaji Shaheed (Ra), Peddakakani, Guntur District. Hence following orders are passed.

ORDER:-

Sri Shaik Akber Ali, S/o. Sri Shaik Mahaboob Muthawalli, Dargah Hzt Baji shaheed (Rh), Aulia at Peddakakani, Guntur District is removed from the services of Muthawalli from the date of issue order u/s 64 of Waqf Act 1995 read with rule 24 of waqf rules 2000.

He is directed to acknowledge receipt of these proceedings on the duplicate copy with dated signature and re-submit the same immediately.

Sd/-.,

9.8.2017

Chief Executive Officer,
Andhra Pradesh State Waqf Board,
Vijayawada.

To,
Sri Shaik Akber Ali, S/o. Sri Shaik Mahaboob Ali,
Muthawalli (Under Suspension)
Dargah Hzt Baji Shaheed Rh Aulia,
Pedakakani Guntur District, (in duplicate)
(By Registered Post Acknowledgement/Due)
Through Inspector Auditor, Guntur District.
Waqf Board, Form-9

REMOVAL FROM THE SERVICES OF MUTHAWALLI OF SRI SHAIK GHOUSE MOHIUDDIN S/O SRI SHAIK GAFOOR AT DARGAH HZT. SYED BAJI SHAHEED AULIA RH. AT PEDDAKAKANI (V) AND (M), GUNTUR DISTRICT. -

Ref:-
1. A.P.S.Waqf Board Proc. NO.105/GNT/2013/Z.V, dated: 21-12-2015.
2. A.P.S.Waqf Board Proc. No.l05/GNT/2013/Z.V, dated: 17-05-2016.
3. AOC issued by the Enquiry Officer in Rc. No. ENQ/105/GNT/2013/Z- V, Dated: 04-06-2016.
4. Defence statements submitted by Sri Shaik Ghouse Mohiuddin, Dt:27-06-16.
5. Findings of the Enquiry Officer submitted vide Rc.No. ENQ/105/GNT/2013/Z-V (B), Dated:05-ll-2016.
6. Orders dated: 21-06-2017 issued by the Hon'ble High Court Hyderabad in W.A. No. 775/2017 in W.P.No.8707/2016 and 13764/2014.
7. AP State Waqf Board Show-Cause Notice Issued Vide F.No.l05/GNT/T/2013/Suppl, dated. 03-07-2017.
8. Explanation submitted by the Muttawalli in reply to the show- cause notice received on 12-07-2017.
9. Orders of the Competent Authority Dated : 08-08-2017.

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F.NO.105/GNT/2013/Z.V-, The A.P State Waqf Board in their proceedings NO.105/GNT/2013/Z.V, dated: 21-12-2015 had appointed Sri Saheb Khan, Executive Officer as Enquiry Officer in the case of disciplinary action initiated against Sri **Shaik Ghouse Mohiuddin** S/o **Shaik Gafoor,** Mutawalli under suspension for his alleged omissions and commissions as Muthawalli of Dargah Hzt. Baji Shaheed (RA) Peddakakani, Guntur District. Subsequently, the Board has extended the time given for enquiry in the reference 2nd cited.

Consequent to the said appointment the Enquiry Officer has issued statement of Article of Charge framing the following charge against Sri **Shaik Ghouse Mohiuddin,** Muthawalli under suspension vide reference 3rd cited. Copies of the relevant decuments to substantitate the allegations were also supplied along with Article of Charges.

Charge No.1: **Commission of Gross financial irregularities:**

Sri **Shaik Ghouse Mohiuddin** S/o. **Sri Shaik Gafoor**, while functioning as Mutawalli of Dargah Hzt Syed Baji Shaheed Aulia(RH), Peddakakani (V & M), Guntur District, from the date of appointment to date of suspension, committed the following irregularities.

a) An amount of Rs. 5,50,000/- was borrowed by the Mutawallies to celebrate Urs festival during 2013-14 without obtaining the necessary permission from the state Waqf board.

b) Opened account No.131110109540 of Canara Bank, Peddakakani Branch in the personal name for conducting transactions of the institution without permission of the Higher Authority .

c) Committed the following grave irregularities in dealing with Dargah funds and failed to maintain accounts in proper form.

i) All expenditure payments were paid by cash instead of cheque payment.

ii) Hundi collections which are income accrued to Dargah were not deposited in the Bank as and when the Hundies were opened.

iii) Minutes Book was not produced before the Audit authorities.

iv) Authorised eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to Audit, on account of which, the transactions shown in the Books were not confirmed by the Auditors.

v) Transactions are not made through Bank Accounts to establish the genuiness of the payments.

vi) No evidence is produced for the conduct of Sunday Arnavasiya Festival involving an amount of Rs.1,11,695/-

vii) The expenditure of Rs.21,000/-towards repairs to Borewell and the expenditure of Rs.82,000/-for Tati Aakula Pandri, are unreasonable.

d) Incurred irregular and unauthorised expenditure on works not connected with Dargah Hzrath Syed Baji Shaheed Aulia(RA) Peddakakani.

According to Audit Report 2010-11, 2011-12 and 2012-13, the following irregular and unauthorised expenditure was incurred towards items not connected with this Institution.

A) As per the Audit Report by M/s. K.V Brahmum and Co., CA, Guntur for the year 2010-11.

1	Audit Fee	37,585.00
2	Haz Janapadu Urus Celbr.	18,825.00
3	Moharam Festival expenses	15,525.00
4	Hzt. Syed Baji Ouliya chill festival	57,825.00
5	Depreciation	2,93,280.00
6	Milainabi festival	32,300.00
7	Hazrath Kali Mastanvali Urus	27,000.00
8	Annadanam	92,405.00
9	Shab-e-Barath	5,800.00
10	Balwid Festival	43,065.00
11	Baba Barasal(Chilla) exp	1,19,955.00
12	Miscellaneous expenses	64,149.00
13	Campus levelling charges	1,03,950.00
14	Janapadu bab Nishary constructor	20,000.00
	Total	**9,31,664.00**

B) As per Audit Report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2011-12.

1	Sunday Amavasya Festival Annada	1,84,895.00
2	Perecherla Ghan Saidabad Nishan	27,675.00

3	Ameenullah Baba Nishan Exp A/c	63,450.00
4	Sheb-e-Baratth Festival Exp A/c	8,150.00
5	Audit Fee A/c 2010-11	37,585.00
6	Bakrid Festival Exp A/c	77,500.00
7	Hazt. Syed Janpadu Saida Urs Exp.	43,072.00
8	Rapairs	83,875.00
9	Hazt. Syed Karimulla Baba Urs Exp	46,200.00
10	Hazt. Khader Vali Baba Urs Exp A/c	81,000.00
11	Tatakula Pandiri making exp A/c.	82,000.00
12	Miscellaneous expenses	28,895.00
13	Road Formation	49,000.00
14	Repair expenses	83,875.00
15	Moharram Festival expenses	9,000.00
16	Depreciation	2,82,749.00
17	Red Rose flowers	61,350.00
18	Electrical Repairs	47,595.00
19	Gravel Expenses	1,50,400.00
	Total	**14,48,266.00**

C) As per Audit report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2012-13.

1	Fhakuruddin Baba Urs Celebrati	8,000.00
2	Hazt. Syed Khaja Garibul Namaz	86,250.00
3	Darga Staff Salaries A/c	6,42,000.00
4	Sheb-e-Barath Festival Exp A/c	2,700.00
5	Audit Fee A/c 2011-2012	49,590.00
6	Baji Baba Chilla Expenses	44,160.00
7	Bakreed Festival	18,000.00
8	Hazt. Karimulla Bab Urs Expenses	6,200.00
9	Janapadu Baba Urs Exp	10,500.00
10	Miladun-Nabi Festival Expenses	5,400.00
11	Syed Karimulla Bab Urs Expenses	59,300.00
12	Syed Mahaboob Subhani Garmy	63,685.00
13	Ameenulla Bab Urs Celebratior	32,500.00
14	Depreciation	3,21,521.00
15	Audit Fee A/c 2012-2013	42,570.00
16	Ameenulla Bab Nishan Exp	51,400.00
17	Loans repaid	51,300.00
	Total	**14,95,076.00**

e) Sri Sk. Adam and Ghouse Mohiuddin are engaged to prepare Dargah Account without obtaining permission from

the Waqf Bard. Paying Rs. 6000/- and 5000/- PM respectively and were paid accordingly.

Charge No.II: **Criminal Misappropriation and Cheating:**

a) Dr. S. Khader Basha, MBBS ; Rukhiya Clinic, came forward with an offer to demolish the leaking roof (slab) of the Dargah and lay a new slab at his cost. Dr. S. Khader Basha in his statement Dt: 22-04-2014 stated that he had consulted Mutawallies and obtained their oral permission to take up the construction and had accordingly constructed a new Mosque in place of the Old Mosque, with an adjoining Shed, and also a residence for Pesh Imam with a Tin Roof. Further he stated that as the leakage in the roof over the Dargah was inconveniencing the devotees, he laid a new slab and also constructed the Dome over the Dargah. He also said that the other works like fixing red tiles and platform for devotees to stay and a wall towards the railway track were also constructed by him with his own money. These facts have also been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement dt: 10-05-2016.

It is seen from the Audit Reports filed by M/s K. V Brahmum, C.A, Guntur that an amount of Rs. 2,62,650/- was incurred during the following years for the items noted against each.

1. Audit report for 2010-11-	1. Mosque store Room	- Rs. 14,550
	2.Mosque Pesh Imam Room Construction	- Rs. 40,000
	Total	Rs. 54,550
2. Audit Report for 2011-12	- 1. Mosque repairs -	Rs. 85,500
3. Audit report for 2012-13	1. Mosque repairs	- Rs. 19,000
	2.Mosque Shed Construction	- Rs. 1,03,600
	Total	Rs. 1,22,600
	Grand Total	Rs. 2,62,650

The Mutawallies have thus exhibited the expenditure in Accounts of Dargah for the works carried out by others as if the said works were executed by them and misappropriated the amount cheating the institution.

b) Sri Shaik Ghouse Mohiddin Mutawalli executed an agreement on 21.11.2013 with Shaik Dawood S/o. Meera Saheb for H.P Gas service taking an advance of Rs. 25,000/- and a deposit of Rs. 9,000/- totaling Rs. 34,000/- Sri Shaik Basheed, Sri Shaik Mahaboob Ali, Sri Shaik Silar Bee, Sri Shaik Akbar Ali, Sri Shaik Galib have entered into an agreement on 29-06-2013 with Sri Vuyyala Koteswar Rao S/o. Venkateswarlu for a lease of permitting slaughter of goats collecting Rs. 13,000/-. Sri Shaik Basheed S/o. Shaik Mohiuddin, Shaik Mahaboob Ali Sri Shaik Akbar Ali leased out a shop by executing an agreement Dt: 26-03-2013 with Sri Pathan Mastan Vali S/o. Meera Saheb for running a Hotel for a period of (1) year collecting an amount of Rs. 40,000/- + 6,000/- totally Rs. 46,000/- all the agreements were executed without permission of the Board and amounts collected were not brought to the accounts of the institutions. They do not find place in the audit reports also. The Mutawallies are not competent to enter into any lease agreements without prior permission from the Board. Further they have collected the following sums under acknowledgements.

1. Receipt No. 12, Dt: 18.03.2011, Sri Shaik Gali Shaheed Rs. 5000/-
2. Receipt No. 4, Dt: 19.11.2011, Sri Galeesa Rs. 5000/-
3. Receipt No. 7, Dt: 18.03.2011, Smt Shaik Mahboob Bi Rs. 5000/-

The sums were neither accounted for nor the fact intimated to the Board. The Mutawallies are not authorized to collect the money on any such items. They have thus, exercised powers beyond competency and acted without any authority and misappropriated the amount.

Charge No.III: **SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS:**

There is practice of sale of Taveez, Bandish, Skin, Head Shave, Broken Cocunut, Chappal Stand, Fowl cutting, Hire, Tal- Bazari Shops, Gulf Cloth, Hundi Collections etc., at the Dargah premises.

As per Board Memo No. B3/24/GNT/2006/Z-IV, Dt: 18-12-2006 an arrangement was made for the sale of

these items by Mujawars and Mutawallies for (21) days and (9) days in a month respectively. The income generated on sale of the above item during their 'Barries' (rotation) was not accounted properly and credited to the institutions.

According to audited Accounts prepared by M/s. K. V Brahmum CA, Guntur , the items of sale proceeds of Lemon, Bandish and vehicle pooja have no at all been brought to account. The income derived by sale of Taveez, per annum was shown as Rs. 82,460/- and Rs. 93,415/- for the years 2011-12 and 2012-13 respectively. As against this, the Institution, under Direct management, (after the suspension of Muthawallis) derived an income of Rs. 1,18,146,248/- for two years ie., for the period from 4/2014 to 3/2016 more than Rs. 59,00,000/- P.A, on an average.

Further, as per the Audited annual statements of accounts, by M/s. K.V Brahmum CA, the Muthawawallies have shown the following total income to Dargah during the years 2010-11 to 2012-13.

1. Year	2010-11	Rs. 23,53,910
2. Year	2011-12	Rs. 26,45,465
3. Year	2012-13	Rs. 24,03,492

The Waqf Board has taken over the institution under Direct Management and the income derived for (2) years from 15-04-2014 to 31-03-2016 is Rs. 2,56,59,772/- i.e, approximately Rs. 1,28,30,000/- per annum. There is reason to believe that the Mutawallis were suppressing huge sums of Dargah income and misappropriated the same.

The Mutawallis instead of availing 10% of the income as their share, have not only taken 10% of the accounted income , but also misappropriated huge sums.

Mutawallis, though charged with the responsibilities of Dargah management failed to act in a transparent manner nor sought directions from the Board for foolproof conduct of transactions.

Charge No.IV: DEFRAUDING WAQF PROPERTY FOR WRONGFUL GAINS

There are (51) structures (shops) within the Dargah premises used by persons for vending coconuts, fancy goods, sweets, tea, etc., All the structures are provided electric power on the service connection in the name and Account of Dargah. The Mutawallies were alleged to have taken control of some structure without paying any rent using them for their personal use or to sub-let. The Mutawallies were collecting the rents of the said structures until their suspension treating the area as Dargah land but are now coming up with the plea that the land on which the structures are located is Government Poram Poke, to deprive the Dargah of the possession, control and administration of the structures and the land. Their actions are at Cross purposes with the Dargah interest and prejudicial to the institution.

Charge No.V: **EXCERSING OF POWERS BEYOND EMPOWERMENT**

The Mutawallies are not vested with the powers of issuing NOC or permission to any one for raising any permanent structure on the land belonging to Dargah. As against this, the Mutawallies permitted One Sri Pathan Mahboob Subhani to raise a structure in the south east of Dargah in the name of Kareemullah Shah Nishani as is evident from the statement of Sri Ghouse Mohiuddin, Sri Basheed and Sri Mahboob Ali, dated: 04-04-2010. Thus the Mutawallis exercised powers beyond their competency.

Charge No.VI: **MISUSE OF PERSONS IN EMPLOY OF DARGAH**

According to Audit Report 2011-12, there are (13) persons in the employment of Dargah. All the employees were not found on duty, when Auditors cross checked their attendance during Audit.

Sri Shaik Abdul Sattar, Shaik Basheed and Shaik Ismail in their statement Dt: 10-05-2016 stated that they were forced by the Mutawallis to attend to their personal work threatening them of dire consequences.

Sri Abdul Sattar S/o. Sri Shaik Abdul Ali working as clerk in the Dargah, Sri Shaik Bashed S/o. Shaik Dawood working as Watchman in the Dargah and Sri Shaik Ismail S/o. Shaik Shabbir working as Sweeper, in their joint statement given before the Enquiry Officer

on 10-05-2016 stated they were appointed by the Waqf Board and being paid from the income of Dargah. The Mutawallis were utilizing their serviced for their personal work prior to their suspension. Even as on the day, Sri Ghouse Mohiuddin, Muttawalli under suspension is utilising the services of Sri Shaik Ismail, Sweeper for personal use. They also stated that they are being threatened of dire consequences if they refuse to do.

Charge No.VII: **FAILURE TO PROVIDE MINIMUM FACILITIES TO VISITORS AND DEVOTEES**

The Dargah at Peddakakani is a very famous religious place attractsing thousands of devotees from distance places. It is moral as well as functional responsibility of the Mutawallies to ensure that minimum basic facilities are provided to devotees. There are adverse reports in the media that the Dargah management had failed to provide the minimum facilities like drinking water, shade and toilets etc. The Mutawallies failed to realise their responsibility.

Sri **Shaik Ghouse Mohiuddin**, Mutawalli, has filed his statement of defense on 27-06-2016, in the form of a sworn and signed affidavit. He has also submitted vakalathnama engaging an advocate along with defense statement. The explanation of the individual charge is as stated below.

CHARGE No.1: **Commission of Gross financial irregularities**

a) The delinquent denied of having barrowed any amount on the ground that the person from whom the amount was borrowed was not mentioned.

b) The Mutawalli contended that Bank Account No. 131110106540 is a Joint account in the name of (4) Mutawallies for joint operation and it is on behalf of the Dargah and that it is in existence since 2007.

c) The Mutawalli did not offer any pointed explanation to the lapses pointed out in dealing with Dargah funds and non maintenance of accounts in the proper form.

d) In respect charge 1(d) the Mutawalli explained that the expenditure shown in the account statements for the year 2011-12 and 2012-13 is as per custom and

practice and denied of any wrong spending on any new expenditure.

e) The Mutawalli did not offer any explanation to the charge of engaging Sri Shaik Adam and himself on Payment of Rs. 6,000/- & Rs. 5,000/- PM respectively.

Charge No.II: **Criminal Misappropriation and Cheating**

a) The Mutawalli explained that the Muttawallis did not demolish the slab of Dargah and had in fact under taken the repairs as the slab of Dagrah was leaking and causing inconvenience on rainy days.

b) The Mutawalli denied the allegation of Muthawallies taking **advances** allotting shops.

Charge No.III: **SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS**

The delinquent explained in Paras 6, 7, 8 and 10 of his explanation that there is an arrangement of barry (Rotation) according to which Mujawars would attend to it for (21) days in a month while the Mutawallis attend to it for the remaining (9) days. He denied having taken remuneration more than 10% of the income. He contended that Muthawallis paid the salaries electricity bills and incurred expenditure on minor repairs and remuneration they received did not exceed 10%. He did not offer any explanation for not accounting the true picture of income derived by Dargah.

Charge No.IV: **DEFRADING WAQF PROPERTY FOR WRONGFUL GAINS**

The delinquent Mutawalli stated that the Mutawallies collected rents at the prevailing market rates and tenants are the persons having faith in Dargah and that it is not a commercial market.

Charge No.V: **EXCERSING OF POWERS BEYOND EMPOWERMENT**

The Mutawalli stated that Dargah Kareemullah Sha Nishani is only a hoarding and that is not located within the premises of Dargah Hzt Baji Shaheed (RA). He denied having given any permission for erecting the Nishan.

Charge No.VI: **MISUSE OF PERSONS IN EMPLOY OF DARGAH**

The Mutawalli denied of taking any services from the personnel of Dargah and denied the allegation.

Charge No.VII: **FAILURE TO PROVE MINIMUM FACILITIES TO VISITORS AND DEVOTEES**

The Mutawalli contended that maximum facilities were provided to devotees such as drinking water, shelter rooms, latrines, electricity, etc.

Besides the Mutawalli stated that Hundi amount of Rs. 8,77,480/- comprised of accumulated collections of (5) months and the same was deposited in Canara Bank. He further stated that said amount was withdrawn and used for different purposes. The Mutawalli contended that an enquiry was conducted by Inspector Auditor behind the back of Mutawallis without any notice and that it is concocted fabricated and unreliable. He also stated that an enquiry, inspection or survey conducted by Waqf Board Officers without any notice to the Mutawallis cannot be taken into consideration. He cited an enquiry report Dt: 15-01-2015 and disputed the present enquiry as without the authority of law. He finally said that the Waqf Board complainant failed to file any document as evidence before the Enquiry Officer and these facts should be taken into consideration. He denied violating Waqf Act 1995, more particularly provisions (a) to (k) of subsection (1) of Section 64 of the Waqf Act 1995.

ENQUIRY:

The enquiry officer fixed the enquiry on 02-09-2016 at Shadikhana Anjuman Islamia, Guntur and the delinquent was informed of date, time and place of enquiry in advance. He has attended the enquiry on 02-09-2016 at Guntur and gave a joint representation along with (3) other mutawallis stating that they had appointed an Advocate of Hyderabad to defend their case and requested to hold the enquiry at Waqf Board office, Hyderabad to facilitate their Advocate to be present at the time of enquiry. His request to hold enquiry at Hyderabad was rejected on the ground that it would cause inconvenience to the local witnesses and he was informed accordingly. The Enquiry Officer has issued a notice fixing the next date of enquiry on 27-09-2016 at Shadhikhana Anjuman Islamia, Guntur making it clear that it was a final opportunity. The delinquent attended the enquiry. He filed a joint application stating that the copies of the statements recorded at the time of enquiry are needed for their lawyer to cross examine the witnesses and

requested to furnish the copies of statements. As requested by the delinquent, copies of statements recorded during the enquiry on 27-09-2016 were supplied to him through notice dated: 06-10-2016 and he was informed that an enquiry would be held in the case on 18-10-2016 at Guntur and it would be the final opportunity. He attended the enquiry and filed a joint representation along with (3) other Muttawallis seeking further time on the plea that their Advocate was pre-occupied at Hyderabad in another case.

The Enquiry Officer observed that Sri **Shaik Ghouse Mohiuddin** the delinquent Mutawalli, is not keen to participate in the enquiry on one pretext or the other. Since the charges are based on the recorded evidence, and now that he sought another opportunity without participating in the enquiry despite being made aware it is the last chance. The Enquiry Officer considered it necessary to expedite the processes of the enquiry on merits without further loss of time. In view of the persistent non-cooperation of the Muttawalli, he came to conclusion that the Muttawalli is not keen to participate in the enquiry and closed it. He was approaching the Court on one side and seeking postponement of the case on another side. The Enquiry Officer has closed the enquiry.

After closing the enquiry, the E.O has examined the case and came to following conclusions:

Charge 1 (a)

The delinquent Mutawalli denied the allegation. It is seen from the paper(press) statement issued by Shaik Ghouse Mohiuddin on 07-03-2014 that an amount of Rs. 5,50,000/- was barrowed to meet the expenses of Urs festival during 2013-14 and the same was obtained by giving a pronotes and Bank cheques. The said statement was signed by the delinquent along with other Mutawallis Akbar Ali, Shaik Mahaboob Alli and Smt.Shaik Silar Bee. It is further seen that the said Mutawallis have also enclosed copies of these paper statement to the District Collector, Guntur on 10-03-2014. It is further seen from the petition dated 05-03-2014 from Shaik Ghouse Mohiuddin addressed to District Minority Welfare Officer, Guntur that (4) Mutawallis including himself had barrowed Rs. 5,50,000/- on interest for Urs festival from one Shaik Zaker Hussain and issued cheques from account No. 1311101019540 of Canara Bank. The evidence so available in record is incontrovertible and it is a fact admitted by himself. Hence the charge is proved conclusively.

Charge 1 (b)

The Mutawalli was charged for opening and operating Joint Account No. 1311101019540 in the Personal names of (4)

Mutawallis including himself without the permission of the Higher Authorities, The rules and procedure of management of finance and accounts require the Bank account to be in the name of the Institution and it should be operated by the persons authorised by the Institution and its Higher Officials as the case may be. In the instant case the delinquent Mutawalli admitted that (4) Mutawllis are operating accounts in their personal name. He is silent over the allegation of not obtaining permission from the higher authorities. Admittedly, it is an account in the personal names of (4) Mutawallis to operate the finances of Dargah and without permission of the Board and it is violation of the rules and procedure. The Charge is proved conclusively.

Charge 1 (c)

The Mutawalli is charged of committing grave irregularities in dealing with Dargah funds and failure to maintain accounts in the proper form. The Charge is based on the Audit Report of the year 2011-12 prepared by M/s K/V Brahmum & Co , C.A. The auditor in their final comments pointed out omission or commissions, in accounts, listed from (i) to (vii) of charge 1(c) of the AOC.

The lapses include serious irregularities like incurring the entire expenditure by cash, instead of Cheque payment, not depositing the Hundi collections in the bank promptly, not maintaining minute books and not producing evidence for certain items of huge expenditure. The Mutawalli did not offer any pointed explanation to the charges leveled. The eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to audit, on account of which transactions shown in the Books were not confirmed by the Auditors. The entire financial and account maintenance by the Mutawallis was arbitrary and without authority and the Audit did not confirm the transaction of the institutions. It is evident that Muthawalli treated the Dargah as their personal property. The Charge is based the Audit report for the year 2011-12 and it is an authentic record which has to be relied. Thus the delinquent Mutawalli has violated provisions of Section 46,50 (a) (b) and (e) of Waqf Act, 1995 and Rule 20 (6)(II)(IX) of Waqf Rules 2000, and Regulations 52 and 53 of Waqf Regulations 1963. He has also violated the instructions laid down in his appointment orders dated: 10-08-2006. Hence the charge is proved.

Charge 1 (d)

It was alleged that irregular and unauthorised expenditure on works not connected with dargah was incurred. The charge is

based on Audit Reports for the year 2010-11. 2011- 12 and 2012-13 filed by M/s K. V. Brahmum & Co. CA, according to which, the following irregular and unauthorized expenditure was incurred towards items not connected with the institutions.

1. 2010-11		Rs. 9,31,664-00
2. 2011-12		Rs. 14,48,566-00
3. 2013-14		Rs. 14,95,076-00
	Total	Rs. 38,75,006-00

The Muthawalli explained that the expenditure was incurred as per custom and practice and denied any wrong spending. As a responsible Mutawalli, he is required to follow the rules and procedure and healthy traditions in the best interest of the institution. Customs and traditions unless not codified do not merit compliance. In case there are customs and traditions which the Mutawalli considers necessary to follow, he should have brought them to the notice of the Board and obtained clearance. The Mutawalli is evidently taking shelter behind the customs and traditions to justify the irregular expenditure. His contention is not acceptable. Hence the charge is proved.

<u>Charge 1 (e)</u>

It is alleged that Sri Syed Adam, Sri Ghouse Mohiddin were engaged to prepare Dargah accounts without obtaining permission from the Waqf Board and they were paid Rs. 6000/- and 5000/- PM respectively. The delinquent did not offer any explanation to the charge. It is seen from that the delinquent Muttawalli along with (3) other Mutawallis issued a paper statement on 10-03-2014 under their own signatures to which they enclosed a list of salary bills signed by delinquent himself for the months of November 2014 and February 2014, showing payment made to Sri Syed Adam Saheb @ Rs. 6000/- PM. It is a document prepared and signed by him which cannot be denied. It is also evident from the defence statement of Sri Shaik Akbar Ali Mutawalli that Shaik Ghose Mohiuddin was also involved in preparation of accounts of Dargah and was paid a remuneration of Rs. 5,000/- per month with the consent of all Muthawallis. The payment is thus established to be a fact. It is further seen from the defence statement of Sri Shaik Akbar Ali another Mutawalli that Shaik Ghouse Mohiuddin prepared the accounts of Dargah and received a remuneration of Rs. 5000/- per month. Thus the delinquent Mutawalli is accountable for lapses. He has misused the powers violating the provisions of Waqf Act 1995

and Waqf Rules 2000 and, the conditions laid down in his appointment orders dated 10-08-2006. Therefore the charge is proved.

Charge II (a)

It is alleged that the delinquent Mutawallis had exhibited expenditure in the accounts of Dargah for the construction works actually carried out and paid by Dr. S. Khader Basha, as if the said works were executed by Mutawallis. The Charge is based on the statement Dt: 22-04-2014 of Dr. Khader Basha who stated that he is a devotee of Dargah and that the slab over the Dargah was re-laid as the old one was leaking and the entire work was carried out by him with his own money. He also stated, he had constructed a new Mosque in place of the old one and constructed a shed and residential accommodation for Pesh Imam. He also deposed that all these works were carried out with his money and only after obtaining permission from the Mutawallis.

It is further alleged that an amount of Rs. 2,62,650/- was spent towards Mosque store room construction, Mosque Pesh Imam room construction of Mosque repairs and Mosque Shed construction as pointed out in audit reports filed by M/s K V Brahamum CA. The Mutawalli is totally silent on the evidence cited in the AOC. The construction and repairs under taken by Dr. Khader Basha have been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement Dated: 10-05-2016, which is not disputed, It is thus seen that all the works done by Dr. Khader Bash, at his cost are illegally appropriated by the delinquent Muthawallis who charged the expenditure to Dargah account and misappropriated the huge sum of money belonging to the institution. He is responsible for violating the provisions of Waqf Act 1995 and Rules 2000 and the conditions laid down in his appointment orders dated: 10-08-2006.Thus, the charge is proved.

Charge II (b)

It is alleged that Shaik Ghouse Mohiuddin, Mutawalli, together with Mutawallis, Shaik Basheed, Shaik Mahaboob Ali and Shaik Akbar Ali entered into an agreement with one Sri Pathan Mastan Vali S/o. Meera Saheb on 26-03-2013, to lease out Baji Baba Hotel in the Dargah premises for Rs. 40,000/- from 01-11-2013 to 31-07-2014. It is further alleged that Shaik Ghouse Mohiuddin, Mutawalli together with other Mutawallis Shaik Basheed, Shaik Mahaboob Ali, Shaik Akbar Ali, Shaik Silar Bee and Shaik Galib entered into an agreement on 29-03-2013 with One Sri Vuyyala Koteswara Rao leasing over the rights of goats sacrificing for Rs. 13,000/- for a period of one year commencing from 08-08-2013. It is further alleged that Shaik Ghouse

Mohiuddin, Mutawalli entered into an agreement on 21-11-2013 with Sri Shaik Dawood S/o. Meera Sahib for Rs. 25,000/- for a period of (14) months for running of HP Gas plant in the Dargah premises. The delinquent denied the allegations. The allegations are based on the agreements entered into by the Mutawllis and the said documents are on record and the said documents are duly signed by the delinquent Mutawllis on respective dates. He has not obtained any permission from the Waqf Board either to lease out or enter into agreements thereby violating the provisions of Section 51 of Waqf Act, 1995 and Rule 20 (4) (e) of the Waqf Rules 2000. Hence the charge is proved.

It is further alleged that the Mutawalli along with other Mutawallis collected following amounts from the following (3) persons towards development fund for Dargah.

S.No.	Date	Report No.	Name of the Donor	Amount in Rupees
1.	18.03.2011	12	Sri Shaik Galib Shaheed	5,000-00
2.	19.11.2011	04	Sri Galisa	5,000-00
3.	18.03.2011	07	Smt. Shaik Mahboob Bee.	5,000-00
			Rs.	15,000-00

It is also alleged that the above amounts were neither accounted for nor the Board was intimated of the collections. The Mutawalli is totally silent over this allegation and did not offer any explanation except denying that the allegation as false. It is seen from the records that there are (3) cash receipts of Dargah Management of the above given numbers and descriptions bearing signatures of the delinquent Mutawlli along with other corroborating the fact that the alleged amount have indeed been received by the Mutawallis. It is an undeniable allegation based in the recorded evidence. Thus it is proved conclusively beyond reasonable doubt that the Muthawalli has acted without any authority and misappropriated the amount.

Charge III

It is alleged that the delinquent Mutawalli suppressed the actual income of the Dargah and indulged in misappropriation in that.

a) He did not bring it to account the income generated on sale of items like Taveez, Bandish, Goat Skin, Head Shave, Coconut etc on the day of his "Bari" (Rotation) and thus misappropriated the Dargah income.

b) M/s K. V. Brahmum C.A have audited the accounts of Dargah for 2010-11, 2011-12 and 2012-13. The accounts prepared by them did not show any income towards Sale proceeds of lemon, Bandish and Vehicle Pooja. The income derived on these items has not at all been brought to account, at all.

c) Income by sale of Taveez per annum was shown as in the account

2010-2011	Rs. 82,460/-
2012-2013	Rs. 93,415

After the Management of Dargah was taken away from Mutawallis after their suspension, the income derived is Rs. 1,18,46,248/- for the subsequent period 4/2014 to 3/2016 i.e, for the two years working at over more than Rs.59,00,000/- per annum on an average. Thus huge sums of actual revenue accrued to Dargah on these items was suppressed.

d) The Income of Dargah when under their management was shown as below:

Year	Rupees
1. 2010-2011	Rs. 23,53,910/-
2. 2011-2012	Rs. 24,03,492/-
3. 2012-2013	Rs. 26,45,465/-

The income of Dargah under the Direct Management of the Board after suspension of the Mutawallis is Rs. 2,56,59,772/-for Two years from 15-04-2014 to 31-03-2016 which is approximately Rs. 1,28,30,000/- per annum.

The delinquent Mutawalli did not offer any pointed explanation to any of the above specific allegation levelled against him. In the light of incontrovertible evidence of audited accounts, it is seen that there has been abnormal difference between the income derived by Dargah under the management of the Mutawallis and that accrued under direct management. The Enquiry Officer concluded that the Muttawalli suppressed the actual income of the Dargah and

huge sums of money went unaccounted for during their tenure which is many times more than the 10% remuneration they are entitled to. The Charge is proved conclusively on the strength of the record evidence beyond all reasonable doubts.

Charge IV

The Mutawallis collected rents for structures within the Dargah premises leasing them out for shops, as long as they were managing the affairs of the Dargah. The same Muthawllies have raised the plea that the land on which shops are located is a poramboke land of Government and not the Dargah property. They were therefore, alleged of adopting double standards to deprive the Dargah of the possession, control and administration of the structures over the land and of acting at cross purposes with the Dargah interest.

The Mutawalli did not offer any pointed explanation except saying that rents are being collected at market rate. It is seen that the Mutawallis are fully conscious of the fact that the land on which the shops are located is under the control of the Dargah and have in fact been collecting rents from the lessees until they were managing the Dargah. The statements of Shaik Abdul Sattar and the statement of Bibijan and others dated 10-05-2016 reveals that the shops were managed by Mutawallis until they were managing the Dargah and they also kept some shops in their control. The statements of these witnesses were communicated along with AOC, but the delinquent is silent over the issue and did not offer any explanation to the allegation. It is therefore held that the charge is proved.

Charge V

The Mutawalli permitted one Sri Pathan Mahboob Subhani to raise structure in the name of Kareemullah Sha Nishani within the Dargah premises. The delinquent explained that no Dargah Kareemullah Shah Nishani is located within the Dargah of Syed Baji Shaheed Aulia and that no permission was given to erect the Nishani. It is seen from the record that the Mutawallis Ghouse Mohiuddin, Shaik Mahboob Ali and Shaik Basheed had given in writing on 04-04-2010 that Sri Pathan Mahboob Subhani is constructing a structure in the name of Dargah Hazrath Kareemullah Sha Quadri and that they had not complained against it as the site was outside the Hazrath Baji Shaheed Dargah. As against this, the same Mutawallis submitted a representation to the Waqf Board on 21-06-2012 stating that Kareemullah Shah

Quadri Nishani is causing financial loss diverting the devotees and requested to take possession of the Nishani as it was constructed on the Dargah Hzt. Baji Shaheed(RA). Sri Pathan Mahboob Subhani who constructed the Nishani also deposed on 10-05-2016 that he had constructed the Kareemullah Shah Quadri Nishani with the consent of Mutawallis Shaik Basheed, Shaik Ghouse Mohiuddin and Shaik Mahaboob Ali. The very fact that the Mutawallis remained silent when the construction was going on speaks volumes of their complicity and collusion. The Enquiry Officer opined that the delinquent Mutawallis had deliberately allowed the illegal construction over the land under the control of the Dargah. They have thus exercised powers beyond their competency betraying the trust reposed in them. The Charge is therefore proved beyond doubt.

Charge VI

It is alleged that though there are (13) persons in the employment of Dargah, all the employees were not found on duty when the auditors cross checked the attendance during audit. It is further alleged that the Mutawallis forced some employees to attend to their personal work threatening them of dire consequences. It is further alleged that the delinquent Mutawalli is utilizing the services of Shaik Ismail. The delinquent Mutawalli did not offer any explanation and silent over the issue even though the evidence Dt: 10-05-2016 of Sri Shaik Abdul Sattar, Shaik Basheed, Shaik Ismail was communicated. Under the circumstances, it has to be deemed that the delinquent did not have any explanation to offer. The charge, therefore, stands proved.

Charge VII

It is alleged that adequate basic facilities are not provided by the Mutawallis at the Dargah visited by thousands of devotees. The delinquent Mutawallis simply said that they have provided maximum facilities like drinking water etc., and denied the charge.

It is seen from the records that there is adverse coverage of the poor facilities available at the Dargah for devotees reported in the daily newspapers dated: 07-01-2014 and there is a complaints dated: 09-01-2014 from the devotees of practically no facilities for the devotees. The simple denial of the charge by the delinquent without offering any explanation in defense seen in the context of compliant petition and the media coverage goes to prove

that the facilities were not satisfactory at the Dargah were utterly inadequate. Therefore the charge is proved.

Summing up his conclusion, the Enquiry Officer stated that the delinquent Muthawalli, during his tenure as Mutawalli of the Dargah displayed scant regard for the responsibility given to him and indulged in acts prejudicial to the Dargah interests which he is expected to protect. He failed to perform his duties in a transparent manner and to enhance the image of the Institution. He acted arbitrary without caring for the rules and procedure as if he is managing his personal property. He finally concluded that all the charges levelled against The Muttawalli stand conclusively proved.

The competent authority examined the findings of the Enquiry Officer with reference to the article of charges, statement of defense together with material available on record and ordered to issue show-cause notice for removal of the Muttawalli. Accordingly the show-cause notice was issued vide reference 7th cited asking the Muttawalli to show cause why he should not be removed from the services of Muttawalli.

He has submitted further explanation to the show-cause notice vide reference 8th cited. His further explanation has been examined and discussed below.

The further defense statement submitted by Sri Shaik Ghouse Mohiuddin in reply to the show-cause notice issued has been examined by the Competent Authority together with the Article of charges, the defense statement filed by the delinquent Muttawalli, evidence available on record and the enquiry report. The competent authority held that the charges leveled against the Muttawalli stand proved conclusively beyond reasonable doubt in as much as all the allegations are based on the recorded evidence as mentioned in the Article of Charges, and felt necessary to remove Sri Shaik Ghouse Mohiuddin, from the services of Muttawalli to meet the ends of justice, as the Muttawalli is guilty of grave financial irregularities. It is also felt necessary that such person should not be allowed access to institutions like Hazarat Baji Shaheed (RA), Peddakakani. Hence, following orders are passed.

ORDER:-

Sri Shaik Gouse Mohiuddin, S/o. Sri Shaik Gafoor, Muthawalli Dargah Hzt Baji shaheed (Rh), Aulia at Peddakakani, Guntur District is removed from the services of Muthawalli from the date of issue order u/s 64 of Waqf Act 1995 read with rule 24 of waqf rules 2000.

He is directed to acknowledge receipt of these proceedings on the duplicate copy with dated signature and re-submit the same immediately.

9.8.2017

Sd/-.,

Chief Executive Officer,
Andhra Pradesh State Waqf Board,
Vijayawada.

To,
Sri Shaik Gouse Mohiuddin, S/o. Sri Shaik
Gafoor Muthawalli (Under Suspension)
Dargah Hzt Baji Shaheed Rh Aulia,
Pedakakani Guntur District, (in duplicate) and
Through Inspector Auditor Guntur District.
(By Registered Post Acknowledgement/Due)

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REMOVAL FROM SERVICES OF MUTHAWALLI OF SRI. SHAIK MAHABOOB ALI S/O SRI SHAIK BAAJI SAHEB AT DARGAH HZT. SYED BAJI SHAHEED AULIA RH. AT PEDDAKAKANI (V) AND (M), GUNTUR DISTRICT. -

Ref:-

1. A.P.S.Waqf Board Proc. No.105/GNT/2013/Z.V, dated: 21-12-2015.
2. A.P.S.Waqf Board Proc. No.105/GNT/2013/Z.V, dated: 17-05-2016.
3. AOC issued by the Enquiry Officer in Rc. No. ENQ/105/GNT/2013/Z-V, Dated: 04-06-2016.
4. Defence statements submitted by Sri Shaik Mahaboob Ali,Dt:26-06-16.
5. Findings of the Enquiry Officer submitted vide Rc.No. ENQ/105/GNT/2013/Z-V (B), Dated:05-11-2016.
6. Orders dated: 21-06-2017 issued by the Hon'ble High Court Hyderabad in W.A. No. 775/2017 in W.P.No.8707/2016 and 13764/2014.
7. AP State Waqf Board Show-Cause Notice Issued Vide F.No.105/GNT/T/2013/Suppl, dated. 03-07-2017.
8. Explanation dt. 12-07-2017 submitted by the Muttawalli in reply to the show-cause notice.
9. Orders of the Competent Authority Dated:08-08-2017.

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F.NO.105/GNT/2013/Z.V-, The A.P State Waqf Board in their proceedings NO.105/GNT/2013/Z.V, dated: 21-12-2015 had appointed Sri Saheb Khan, Executive Officer as Enquiry Officer in the case of disciplinary action initiated against Sri **Shaik Mahaboob Ali** S/o Sri **Shaik Baaji Saheb,** Mutawalli under suspension for his alleged omissions and commissions as Muthawalli of Dargah Hzt. Baji Shaheed (RA) Peddakakani, Guntur District. Subsequently, the Board has extended the time given for enquiry in the reference 2nd cited.

Consequent to the said appointment the Enquiry Officer has issued statement of Article of Charge framing the following charge against Sri **Shaik Ghouse Mohiuddin,** Muthawalli under suspension vide reference 3rd cited. Copies of the relevant decuments to substantitate the allegations were also supplied along with Article of Charges.

Charge No.1: **Commission of Gross financial irregularities**

Sri **Shaik Mahaboob Ali** S/o. **Sri Shaik Baaji Saheb**, while functioning as Mutawalli of Dargah Hzt Syed Baji Shaheed Aulia(RH), Peddakakani (V & M), Guntur District, from the date of appointment to date of suspension, committed the following irregularities.

a) An amount of Rs. 5,50,000/- was borrowed by the Mutawallies to celebrate Urs festival during 2013-14 without obtaining the necessary permission from the state Waqf board.

b) Opened account No.131110109540 of Canara Bank, Peddakakani Branch in the personal name for conducting transactions of the institution without permission of the Higher Authority .

c) Committed the following grave irregularities in dealing with Dargah funds and failed to maintain accounts in proper form.

i) All expenditure payments were paid by cash instead of cheque payment.

ii) Hundi collections which are income accrued to Dargah were not deposited in the Bank as and when the Hundies were opened.

iii) Minutes Book was not produced before the Audit authorities.

iv) Authorised eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to Audit, on account of which, the transactions shown in the Books were not confirmed by the Auditors.

v) Transactions are not made through Bank Accounts to establish the genuiness of the payments.

vi) No evidence is produced for the conduct of Sunday Amavasiya Festival involving an amount of Rs.1,11,695/-

vii) The expenditure of Rs.21,000/-towards repairs to Borewell and the expenditure of Rs.82,000/-for Tati Aakula Pandri, are unreasonable.

d) Incurred irregular and unauthorised expenditure on works not connected with Dargah Hzrath Syed Baji Shaheed Aulia(RA) Peddakakani.

According to Audit Report 2010-11, 2011-12 and 2012-13, the following irregular and unauthorised expenditure was incurred towards items not connected with this Institution.

A) As per the Audit Report by M/s. K.V Brahmum and Co., CA, Guntur for the year 2010-11.

1	Audit Fee	37,585.00
2	Haz Janapadu Urus Celbr.	18,825.00
3	Moharam Festival expenses	15,525.00
4	Hzt. Syed Baji Ouliya chill festival	57,825.00
5	Depreciation	2,93,280.00
6	Milainabi festival	32,300.00
7	Hazrath Kali Mastanvali Urus	27,000.00
8	Annadanam	92,405.00
9	Shab-e-Barath	5,800.00
10	Balwid Festival	43,065.00
11	Baba Barasal(Chilla) exp	1,19,955.00
12	Miscellaneous expenses	64,149.00
13	Campus levelling charges	1,03,950.00
14	Janapadu bab Nishary constructor	20,000.00
	Total	**9,31,664.00**

B) As per Audit Report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2011-12.

1	Sunday Amavasya Festival Annada	1,84,895.00
2	Perecherla Ghan Saidabad Nishan	27,675.00
3	Ameenullah Baba Nishan Exp A/c	63,450.00
4	Sheb-e-Baratth Festival Exp A/c	8,150.00

5	Audit Fee A/c 2010-11	37,585.00
6	Bakrid Festival Exp A/c	77,500.00
7	Hazt. Syed Janpadu Saida Urs Exp.	43,072.00
8	Rapairs	83,875.00
9	Hazt. Syed Karimulla Baba Urs Exp	46,200.00
10	Hazt. Khader Vali Baba Urs Exp A/c	81,000.00
11	Tatakula Pandiri making exp A/c.	82,000.00
12	Miscellaneous expenses	28,895.00
13	Road Formation	49,000.00
14	Repair expenses	83,875.00
15	Moharram Festival expenses	9,000.00
16	Depreciation	2,82,749.00
17	Red Rose flowers	61,350.00
18	Electrical Repairs	47,595.00
19	Gravel Expenses	1,50,400.00
	Total	**14,48,266.00**

C) As per Audit report by M/s. K.V Brahmum and Co. CA, Guntur for the year 2012-13.

1	Fhakuruddin Baba Urs Celebrati	8,000.00
2	Hazt. Syed Khaja Garibul Namaz	86,250.00
3	Darga Staff Salaries A/c	6,42,000.00
4	Sheb-e-Barath Festival Exp A/c	2,700.00
5	Audit Fee A/c 2011-2012	49,590.00
6	Baji Baba Chilla Expenses	44,160.00
7	Bakreed Festival	18,000.00

8	Hazt. Karimulla Bab Urs Expenses	6,200.00
9	Janapadu Baba Urs Exp	10,500.00
10	Miladun-Nabi Festival Expenses	5,400.00
11	Syed Karimulla Bab Urs Expenses	59,300.00
12	Syed Mahaboob Subhani Garmy	63,685.00
13	Ameenulla Bab Urs Celebratior	32,500.00
14	Depreciation	3,21,521.00
15	Audit Fee A/c 2012-2013	42,570.00
16	Ameenulla Bab Nishan Exp	51,400.00
17	Loans repaid	51,300.00
	Total	**14,95,076.00**

e) Sri Sk. Adam and Ghouse Mohiuddin are engaged to prepare Dargah Account without obtaining permission from the Waqf Bard. Paying Rs. 6000/- and 5000/- PM respectively and were paid accordingly.

Charge No.II: Criminal Misappropriation and Cheating

a) Dr. S. Khader Basha, MBBS ; Rukhiya Clinic, came forward with an offer to demolish the leaking roof (slab) of the Dargah and lay a new slab at his cost. Dr. S. Khader Basha in his statement Dt: 22-04-2014 stated that he had consulted Mutawallies and obtained their oral permission to take up the construction and had accordingly constructed a new Mosque in place of the Old Mosque, with an adjoining Shed, and also a residence for Pesh Imam with a Tin Roof. Further he stated that as the leakage in the roof over the Dargah was inconveniencing the devotees, he laid a new slab and also constructed the Dome over the Dargah. He also said that the other works like fixing red tiles and platform for devotees to stay and a wall towards the railway track were also constructed by him with his own money. These facts have also been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement dt: 10-05-2016.

It is seen from the Audit Reports filed by M/s K. V Brahmum, C.A, Guntur that an amount of Rs. 2,62,650/- was incurred during the following years for the items noted against each.

1. Audit report for 2010-11- 1. Mosque store Room - Rs. 14,550

2.Mosque Pesh Imam Room Construction - Rs. 40,000

Total Rs. 54,550

2. Audit Report for 2011-12 - 1. Mosque repairs - Rs. 85,500

3. Audit report for 2012-13 1. Mosque repairs - Rs. 19,000

2.Mosque Shed Construction - Rs. 1,03,600

Total Rs. 1,22,600

G.T Rs. 2,62,650

The Mutawallies have thus exhibited the expenditure in Accounts of Dargah for the works carried out by others as if the said works were executed by them and misappropriated the amount cheating the institution.

b) Sri Shaik Ghouse Mohiddin Mutawalli executed an agreement on 21.11.2013 with Shaik Dawood S/o. Meera Saheb for H.P Gas service taking an advance of Rs. 25,000/- and a deposit of Rs. 9,000/- totaling Rs. 34,000/- Sri Shaik Basheed, Sri Shaik Mahaboob Ali, Sri Shaik Silar Bee, Sri Shaik Akbar Ali, Sri Shaik Galib have entered into an agreement on 29-06-2013 with Sri Vuyyala Koteswar Rao S/o. Venkateswarlu for a lease of permitting slaughter of goats collecting Rs. 13,000/-. Sri Shaik Basheed S/o. Shaik Mohiuddin, Shaik Mahaboob Ali Sri Shaik Akbar Ali leased out a shop by executing an agreement Dt: 26-03-2013 with Sri Pathan Mastan Vali S/o. Meera Saheb for running a Hotel for a period of (1) year collecting an amount of Rs. 40,000/- + 6,000/- totally Rs. 46,000/- all the agreements were executed without permission of the Board and amounts collected were not brought to the accounts of the institutions. They do not find place in the audit reports also. The Mutawallies are not competent to enter into any lease agreements without prior permission from the Board. Further they have collected the following sums under acknowledgements.

1. Receipt No. 12, Dt: 18.03.2011, Sri Shaik Gali Shaheed Rs. 5000/-
2. Receipt No. 4, Dt: 19.11.2011, Sri Galeesa Rs. 5000/-
3. Receipt No. 7, Dt: 18.03.2011, Smt Shaik Mahboob Bi Rs. 5000/-

The sums were neither accounted for nor the fact intimated to the Board. The Mutawallies are not authorized to collect the money on any such items. They have thus, exercised powers beyond competency and acted without any authority and misappropriated the amount.

Charge No.III: SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS

There is practice of sale of Taveez, Bandish, Skin, Head Shave, Broken Cocunut, Chappal Stand, Fowl cutting, Hire, Tal-Bazari Shops, Gulf Cloth, Hundi Collections etc., at the Dargah premises.

As per Board Memo No. B3/24/GNT/2006/Z-IV, Dt: 18-12-2006 an arrangement was made for the sale of these items by Mujawars and Mutawallies for (21) days and (9) days in a month respectively. The income generated on sale of the above item during their 'Barries' (rotation) was not accounted properly and credited to the institutions.

According to audited Accounts prepared by M/s. K. V Brahmum CA, Guntur , the items of sale proceeds of Lemon, Bandish and vehicle pooja have no at all been brought to account. The income derived by sale of Taveez, per annum was shown as Rs. 82,460/- and Rs. 93,415/- for the years 2011-12 and 2012-13 respectively. As against this, the Institution, under Direct management, (after the suspension of Muthawallis) derived an income of Rs. 1,18,146,248/- for two years ie., for the period from 4/2014 to 3/2016 more than Rs. 59,00,000/- P.A, on an average.

Further, as per the Audited annual statements of accounts, by M/s. K.V Brahmum CA, the Muthawawallies have shown the following total income to Dargah during the years 2010-11 to 2012-13.

1. Year	2010-11	Rs. 23,53,910
2. Year	2011-12	Rs. 26,45,465
3. Year	2012-13	Rs. 24,03,492

The Waqf Board has taken over the institution under Direct Management and the income derived for (2) years from 15-04-2014 to 31-03-2016 is Rs. 2,56,59,772/- i.e, approximately Rs. 1,28,30,000/- per annum. There is reason to believe that the Mutawallies were suppressing huge sums of Dargah income and misappropriated the same.

The Mutawallies instead of availing 10% of the income as their share, have not only taken 10% of the accounted income , but also misappropriated huge sums.

Mutawallies, though charged with the responsibilities of Dargah management failed to act in a transparent manner nor sought directions from the Board for foolproof conduct of transactions.

Charge No.IV: DEFRAUDING WAQF PROPERTY FOR WRONGFUL GAINS

There are (51) structures (shops) within the Dargah premises used by persons for vending coconuts, fancy goods, sweets, tea, etc., All the structures are provided electric power on the service connection in the name and Account of Dargah. The Mutawallies were alleged to have taken control of some structure without paying any rent using them for their personal use or to sub-let. The Mutawallies were collecting the rents of the said structures until their suspension treating the area as Dargah land but are now coming up with the plea that the land on which the structures are located is Government Poram Poke,

to deprive the Dargah of the possession, control and administration of the structures and the land. Their actions are at Cross purposes with the Dargah interest and prejudicial to the institution.

Charge No.V: **EXCERSING OF POWERS BEYOND EMPOWERMENT**

The Mutawallies are not vested with the powers of issuing NOC or permission to any one for raising any permanent structure on the land belonging to Dargah. As against this, the Mutawallies permitted One Sri Pathan Mahboob Subhani to raise a structure in the south east of Dargah in the name of Kareemullah Shah Nishani as is evident from the statement of Sri Ghouse Mohiuddin, Sri Basheed and Sri Mahboob Ali, dated: 04-04-2010. Thus the Mutawallies exercised powers beyond their competency.

Charge No.VI: **MISUSE OF PERSONS IN EMPLOY OF DARGAH**

According to Audit Report 2011-12, there are (13) persons in the employment of Dargah. All the employees were not found on duty, when Auditors cross checked their attendance during Audit.

Sri Shaik Abdul Sattar, Shaik Basheed and Shaik Ismail in their statement Dt: 10-05-2016 stated that they were forced by the Mutawallies to attend to their personal work threatening them of dire consequences.

Sri Abdul Sattar S/o. Sri Shaik Abdul Ali working as clerk in the Dargah, Sri Shaik Bashed S/o. Shaik Dawood working as Watchman in the Dargah and Sri Shaik Ismail S/o. Shaik Shabbir working as Sweeper, in their joint statement given before the Enquiry Officer on 10-05-2016 stated they were appointed by the Waqf Board and being paid from the income of Dargah. The Mutawallies were utilizing their serviced for their personal work prior to their suspension. They also stated that they are being threatened of dire consequences if they refuse to do.

Charge No.VII: **FAILURE TO PROVIDE MINIMUM FACILITIES TO VISITORS AND DEVOTEES**

The Dargah at Peddakakani is a very famous religious place attractsing thousands of devotees from distance places. It is moral as well as functional responsibility of the Mutawallies to ensure that minimum basic facilities are provided to devotees. There are adverse reports in the media that the Dargah management had failed to provide the minimum facilities like drinking water, shade and toilets etc. The Mutawallies failed to realise their responsibility.

Sri **Shaik Maboob Ali**, Mutawalli, has filed his statement of defence on 26-06-2016, in the form of a sworn and signed affidavit. He has also submitted vakalathnama engaging an advocate along with defence statement. The explanation of the individual charge is as stated below.

CHARGE NO.1: Commission of Gross financial irregularities

a) The delinquent denied of having barrowed any amount on the ground that the person from whom the amount was borrowed was not mentioned.

b) The Mutawalli contended that Bank Account No. 131110106540 is a Joint account in the name of (4) Mutawallies for joint operation and it is on behalf of the Dargah and that it is in existence since 2007.

c) The Mutawalli did not offer any pointed explanation to the lapses pointed out in dealing with Dargah funds and non maintenance of accounts in the proper form.

d) In respect charge 1(d) the Mutawalli explained that the expenditure shown in the account statements for the year 2011-12 and 2012-13 is as per custom and practice and denied of any wrong spending on any new expenditure.

e) The Mutawalli did not offer any explanation to the charge of engaging Sri Shaik Adam and Sri Ghouse Mohiuddin on Payment of Rs. 6000/- & Rs. 5000/- PM respectively.

Charge No.II: Criminal Misappropriation and Cheating

a) The Mutawalli explained that the Muttawallis did not demolish the slab of Dargah and had in fact under taken the repairs as the slab of Dagrah was leaking and causing inconvenience on rainy days.

b) The Mutawalli denied the allegation of Muthawallies taking **advances** allotting shops.

Charge No.III: SUPRESSION OF INCOME OF THE INSTITUTION AND MISAPPROPRIATION OF COLLECTIONS

The delinquent explained in Paras 6, 7, 8 and 10 of his explanation that there is an arrangement of barry (Rotation) according to which Mujawars would attend to it for (21) days in a month while the Mutawallies attend to it for the remaining (9) days. He denied having taken remuneration more than 10% of the income. He contended that Muthawallies paid the salaries electricity bills and incurred expenditure on minor repairs and remuneration they received did not exceed 10%. He did not offer any explanation for not accounting the true picture of income derived by Dargah.

Charge No.IV: DEFRADING WAQF PROPERTY FOR WRONGFUL GAINS

The delinquent Mutawalli stated that the Mutawallies collected rents at the prevailing market rates and tenants are the persons having faith in Dargah and that it is not a commercial market.

Charge No.V: EXCERSING OF POWERS BEYOND EMPOWERMENT

The Mutawalli stated that Dargah Kareemullah Sha Nishani is only a hoarding and that is not located within the premises of Dargah Hzt Baji Shaheed (RA). He denied having given any permission for erecting the Nishan.

Charge No.VI: MISUSE OF PERSONS IN EMPLOY OF DARGAH

The Mutawalli denied of taking any services from the personnel of Dargah and denied the allegation.

Charge No.VII: FAILURE TO PROVE MINIMUM FACILITIES TO VISITORS AND DEVOTEES

The Mutawalli contended that maximum facilities were provided to devotees such as drinking water, shelter rooms, latrines, electricity, etc.

Besides the Mutawalli stated that Hundi amount of Rs. 8,77,480/- comprised of accumulated collections of (5) months and the same was deposited in Canara Bank. He further stated that said amount was withdrawn and used for different purposes. The Mutawalli contended that an enquiry was conducted by Inspector Auditor behind the back of Mutawallis without any notice and that it is concocted fabricated and unreliable. He also stated that an enquiry, inspection or survey conducted by Waqf Board Officers without any notice to the Mutawallis cannot be taken into consideration. He cited an enquiry report Dt: 15-01-2015 and disputed the present enquiry as without the authority of law. He finally said that the Waqf Board complainant failed to file any document as evidence before the Enquiry Officer and these facts should be taken into consideration. He denied violating Waqf Act 1995, more particularly provisions (a) to (k) of subsection (1) of Section 64 of the Waqf Act 1995.

ENQUIRY:

The enquiry officer fixed the enquiry on 02-09-2016 at Shadikhana Anjuman Islamia, Guntur and the delinquent was informed of date, time and place of enquiry in advance. He has attended the enquiry on 02-09-2016 at Guntur and gave a joint representation along with (4) other mutawallies stating that they had appointed an Advocate of Hyderabad to defend their case and requested to hold the enquiry at Waqf Board office, Hyderabad to facilitate their Advocate to be present at the time of enquiry. His request to hold enquiry at Hyderabad was rejected on the ground that it would cause inconvenience to the local witnesses and he was informed accordingly. The Enquiry Officer has issued a notice fixing the next date of enquiry on 27-09-2016 at Shadhikhana Anjuman Islamia, Guntur making it clear that it was a final opportunity. The delinquent attended the enquiry. He filed a joint application stating that the copies of the statements recorded at the time of enquiry are needed for their lawyer to cross examine the witnesses and requested to furnish the copies of statements. As requested by the delinquent copies of statements recorded during the enquiry on 27-09-2016 were supplied to him through notice dated: 06-10-2016 and he was informed that an enquiry would be held in the case on 18-10-2016 at Guntur and it would be the final opportunity. The delinquent did not attend the enquiry on 18-10-2016 and sent a representation, stating that due to demise of his aunt and was unable to attend the enquiry. Considering his request an enquiry was held on 02-11-2016 at Guntur. He attended the enquiry on 02-11-2016 and submitted representation requesting further time as his advocate had asked him to seek time.

The Enquiry Officer observed that Sri **Shaik Mahboob Ali** the delinquent Mutawalli, is not keen to participate in the enquiry on one pretext or the other. Since the charges are based on the recorded evidence, and now that he sought another opportunity without participating in the enquiry despite being made aware it is the last chance. The Enquiry Officer considered it necessary to expedite the processes of the enquiry on merits without further loss of time. In view of the persistent non-cooperation of the Muttawalli, he came to conclusion that the Muttawalli is not keen to participate in the enquiry and closed it. He was approaching the Court on one side and seeking postponement of the case on another side. The Enquiry Officer has closed the enquiry.

After closing the enquiry, the E.O has examined the case and came to following conclusions:

Charge 1 (a)

The delinquent Mutawalli denied the allegation. It is seen from the paper(press) statement issued by Shaik Mahboob Ali on 07-03-2014 that an amount of Rs. 5,50,000/- was barrowed to meet the expenses of Urs festival during 2013-14 and the same was obtained by giving a pronotes and Bank cheques. The said statement was signed by the delinquent along with other Mutawallies Akbar Ali, Shaik Ghouse Mohiuddin and Shaik Silar Bee. It is further seen that the said Mutawallies have also enclosed copies of these paper statement to the District Collector Guntur on 10-03-2014. It is further seen from the petition dated 05-03-2014 from Shaik Mahboob Ali addressed to District Minority Welfare Officer, Guntur that (4) Mutawallies including himself had barrowed Rs. 550000/- on interest for Urs festival from one Shaik Zaker Hussain and issued cheques from account No. 1311101019540 of Canara Bank. The evidence so available in record is incontrovertible and it is a fact admitted by himself. Hence the charge is proved conclusively.

Charge 1 (b)

The Mutawalli was charged for opening and operating Joint Account No. 1311101019540 in the Personal names of (4) Mutawallis including himself without the permission of the Higher Authorities, The rules and procedure of management of finance and accounts require the Bank account to be in the name of the Institution and it should be operated by the persons autherised by the Institution and its Higher Officials as the case may be. In the instant case the delinquent Mutawalli admitted that (4) Mutawllis are operating accounts in their personal name. He is silent over the allegation of not obtaining permission from the higher authorities. Admittedly, it is an account in the personal names of (4) Mutawallis to operate the finances of Dargah and without permission of the Board and it is violation of the rules and procedure. The Charge is proved conclusively.

Charge 1 (c)

The Mutawalli is charged of committing grave irregularities in dealing with Dargah funds and failure to maintain accounts in the proper form. The Charge is based on the Audit Report of the year 2011-12 prepared by M/s K/V Brahmum & Co , C.A. The auditor in their final comments pointed out omission or commissions, in accounts, listed from (i) to (vii) of charge 1(c) of the AOC.

The lapses include serious irregularities like incurring the entire expenditure by cash, instead of Cheque payment, not depositing the Hundi collections in the bank promptly, not maintaining minute books and not producing evidence for certain items of huge expenditure. The Mutawalli did not offer any pointed explanation to the charges levelled. The eligibility criteria for sanction of transactions of either revenue or capital expenditure are not produced to audit, on account of which transactions shown in the Books were not confirmed by the Auditors. The entire financial and account maintenance by the Mutawallis was arbitrary and without authority and the Audit did not confirm the transaction of the institutions. It is evident that Muthawalli treated the Dargah as their personal property. The Charge is based the Audit report for the year 2011-12 and it is an authentic record which has to be relied. Thus the delinquent Mutawalli has violated provisions of Section 46,50 (a) (b) and (e) of Waqf Act, 1995 and Rule 20 (6)(II)(IX) of Waqf Rules 2000, and Regulations 52 and 53 of Waqf Regulations 1963. He has also violated the instructions laid down in his appointment orders dated: 10-08-2006. Hence the charge is proved.

Charge 1 (d)

It was alleged that irregular and unauthorised expenditure on works not connected with dargah was incurred. The charge is based on Audit Reports for the year 2010-11, 2011- 12 and 2012-13 filed by M/s K. V. Brahmum & Co. CA, according to which, the following irregular and unauthorized expenditure was incurred towards items not connected with the institutions.

1. 2010-11		Rs. 9,31,664-00
2. 2011-12		Rs. 14,48,566-00
3. 2013-14		Rs. 14,95,076-00
	Total	Rs. 38,75,006-00

The Muthawalli explained that the expenditure was incurred as per custom and practice and denied any wrong spending. As a responsible Mutawalli, he is required to follow the rules and procedure and healthy traditions in the best interest of the institution. Customs and traditions unless not codified do not merit compliance. In case there are customs and traditions which the Mutawalli considers necessary to follow, he should have brought them to the notice of the Board and obtained clearance. The Mutawalli is evidently taking shelter behind the customs and traditions to justify the irregular expenditure. His contention is not acceptable. Hence the charge is proved.

Charge 1 (e)

It is alleged that Sri Syed Adam, Sri Ghouse Mohiddin were engaged to prepare Dargah accounts without obtaining permission from the Waqf Board and they were paid Rs. 6000/- and 5000/- PM respectively. The delinquent did not offer any explanation to the charge. It is seen from that the delinquent Mutawalli along with (3) other Mutawallies issued a paper statement on 10-03-2014 under their own signatures to which they enclosed a list of salary bills signed by delinquent himself for the months of November 2014 and February 2014, showing payment made to Sri Syed Adam Saheb @ Rs. 6000/- PM. It is a document prepared and

signed by him which cannot be denied. It is also evident from the defence statement of Sri Shaik Akbar Ali Mutawalli that Shaik Ghose Mohiuddin was also involved in preparation of accounts of Dargah and was paid a remuneration of Rs. 5000/- per month with the consent of all Muthawallies. The payment is thus established to be a fact. It is further seen from the defence statement of Sri Shaik Akbar Ali another Mutawalli that Shaik Ghouse Mohiuddin prepared the accounts of Dargah and received a remuneration of Rs. 5000/- per month. Thus the delinquent Mutawalli is accountable for lapses. He has misused the powers violating the provisions of Waqf Act 1995 and Waqf Rules 2000 and, the conditions laid down in his appointment orders dated 10-08-2006. Therefore the charge is proved.

Charge II (a)

It is alleged that the delinquent Mutawallies had exhibited expenditure in the accounts of Dargah for the construction works actually carried out and paid by Dr. S. Khader Basha, as if the said works were executed by Mutawallies. The Charge is based on the statement Dt: 22-04-2014 of Dr. Khader Basha who stated that he is a devotee of Dargah and that the slab over the Dargah was re-laid as the old one was leaking and the entire work was carried out by him with his own money. He also stated, he had constructed a new Mosque in place of the old one and constructed a shed and residential accommodation for Pesh Imam. He also deposed that all these works were carried out with his money and only after obtaining permission from the Mutawallis.

It is further alleged that an amount of Rs. 2,62,650/- was spent towards Mosque store room construction, Mosque Pesh Imam room construction of Mosque repairs and Mosque Shed construction as pointed out in audit reports filed by M/s K V Brahamum CA. The Mutawalli is totally silent on the evidence cited in the AOC. The construction and repairs under taken by Dr. Khader Basha have been corroborated by Sri Mastan Vali Mouzan of the Mosque in his statement Dated: 10-05-2016, which is not disputed. It is thus seen that all the works done by Dr. Khader Bash, at his cost are illegally appropriated by the delinquent Muthawallis who charged the expenditure to Dargah account and misappropriated the huge sum of money belonging to the institution. He is responsible for violating the provisions of Waqf Act 1995 and Rules 2000 and the conditions laid down in his appointment orders dated: 10-08-2006.Thus, the charge is proved.

Charge II (b)

It is alleged that Shaik Mahboob Ali Mutawalli, together with Mutawallis, Shaik Basheed, Shaik Ghouse Mohiuddin and Shaik Akbar Ali entered into an agreement with one Sri Pathan Mastan Vali S/o. Meera Saheb on 26-03-2013, to lease out Baji Baba Hotel in the Dargah premises for Rs. 40,000/- from 01-11-2013 to 31-07-2014. It is further alleged that Shaik Mahboob Ali Mutawalli together with other Mutawallies Shaik Basheed, Shaik Ghouse Mohiuddin, Shaik Akbar Ali, Shaik Silar Bee and Shaik Galib entered into an agreement on 29-03-2013 with One Sri Vuyyala Koteswara Rao leasing over the rights of goats sacrificing for Rs. 13,000/- for a period of one year commencing from 08-08-2013. It is further alleged that Shaik Ghouse Mohiuddin Mutawalli entered into an agreement on 21-11-2013 with Sri Shaik Dawood S/o. Meera Sahib for Rs. 25,000/- for a period of (14) months for running of HP Gas plant in the Dargah premises. The delinquent denied the allegations. The allegations are based on the

agreements entered into by the Mutawllies and the said documents are on record and the said documents are duly signed by the delinquent Mutawllies on respective dates. He has not obtained any permission from the Waqf Board either to lease out or enter into agreements thereby violating the provisions of Section 51 of Waqf Act, 1995 and Rule 20 (4) (e) of the Waqf Rules 2000. Hence the charge is proved.

It is further alleged that the Mutawalli along with other Mutawallies collected following amounts from the following (3) persons towards development fund for Dargah.

S.No.	Date	Report No.	Name of the Donor	Amount in Rupees
1.	18.03.2011	12	Sri Shaik Galib Shaheed	5,000-00
2.	19.11.2011	04	Sri Galisa	5,000-00
3.	18.03.2011	07	Smt. Shaik Mahboob Bee	5,000-00
			Rs.	15,000-00

It is also alleged that the above amounts were neither accounted for nor the Board intimated of the collections. The Mutawalli is totally silent over this allegation and did not offer any explanation except denying that the allegation as false. It is seen from the records that there are (3) cash receipts of Dargah Management of the above given numbers and descriptions bearing signatures of the delinquent Mutawlli along with other corroborating the fact that the alleged amount have indeed been received by the Mutawallies. It is an undeniable allegation based in the recorded evidence. Thus it is proved conclusively beyond reasonable doubt that the Muthawalli has acted without any authority and misappropriated the amount.

Charge III

It is alleged that the delinquent Mutawalli suppressed the actual income of the Dargah and indulged in misappropriation in that.

a) He did not bring it to account the income generated on sale of items like Taveez, Bandish, Goat Skin, Head Shave, Coconut etc on the day of his "Bari" (Rotation) and thus misappropriated the Dargah income.

b) M/s K. V. Brahmum C.A have audited the accounts of Dargah for 2010-11, 2011-12 and 2012-13. The accounts prepared by them did not show any income towards Sale proceeds of lemon, Bandish and Vehicle Pooja. The income derived on these items has not at all been brought to account, at all.

c) Income by sale of Taveez per annum was shown as in the account

2010-2011	Rs. 82,460/-
2012-2013	Rs. 93,415

After the Management of Dargah was taken away from Mutawallis after their suspension, the income derived is Rs. 1,18,46,248/- for the subsequent period 4/2014 to 3/2016 i.e, for the two years working at over more than Rs.59,00,000/- per annum on an average. Thus huge sums of actual revenue accrued to Dargah on these items was suppressed.

d) The Income of Dargah when under their management was shown as below:

Year	Rupees
1. 2010-2011	Rs. 23,53,910/-
2. 2011-2012	Rs. 24,03,492/-
3. 2012-2013	Rs. 26,45,465/-

The income of Dargah under the Direct Management of the Board after suspension of the Mutawallis is Rs. 2,56,59,772/-for Two years from 15-04-2014 to 31-03-2016 which is approximately Rs. 1,28,30,000/- per annum.

The delinquent Mutawalli did not offer any pointed explanation to any of the above specific allegation levelled against him. In the light of incontrovertible evidence of audited accounts, it is seen that there has been abnormal difference between the income derived by Dargah under the management of the Mutawallis and that accrued under direct management. The Enquiry Officer concluded that the Muttawalli suppressed the actual income of the Dargah and huge sums of money went unaccounted for during their tenure which is many times more than the 10% remuneration they are entitled to. The Charge is proved conclusively on the strength of the record evidence beyond all reasonable doubts.

Charge IV

The Mutawallies collected rents for structures within the Dargah premises leasing them out for shops, as long as they were managing the affairs of the Dargah. The same Muthawllies have raised the plea that the land on which shops are located is a poramboke land of Government and not the Dargah property. They were therefore, alleged of adopting double standards to deprive the Dargah of the possession, control and administration of the structures over the land and of acting at cross purposes with the Dargah interest.

The Mutawalli did not offer any pointed explanation except saying that rents are being collected at market rate. It is seen that the Mutawallies are fully conscious of the fact that the land on which the shops are located is under the control of the Dargah and have in fact been collecting rents from the lessees until they were managing the Dargah. The statements of Shaik Abdul Sattar and the statement of Bibijan and others dated 10-05-2016 reveals that the shops were managed by Mutawallies until they were managing the Dargah and they also kept some shops in their control. The statements of these witnesses were communicated along with AOC, but the delinquent is silent over the issue and did not offer any explanation to the allegation. It is therefore held that the charge is proved.

Charge V

The Mutawalli permitted one Sri Pathan Mahboob Subhani to raise structure in the name of Kareemullah Sha Nishani within the Dargah premises. The delinquent explained that no Dargah Kareemullah Shah Nishani is located within the Dargah of Syed Baji Shaheed Aulia and that no permission was given to erect the Nishani. It is seen from the record that the Mutawallies Ghouse Mohiuddin, Shaik Mahboob Ali and Shaik Basheed had given in writing on 04-04-2010 that Sri Pathan Mahboob Subhani is constructing a structure in the name of Dargah Hazrath Kareemullah Sha Quadri and that they had not complained against it as the site was outside the Hazrath Baji Shaheed Dargah. As against this, the same Mutawallis submitted a representation to the Waqf Board on 21-06-2012 stating that Kareemullah Shah Quadri Nishani is causing financial loss diverting the devotees and requested to take possession of the Nishani as it was constructed on the Dargah Hzt. Baji Shaheed(RA). Sri Pathan Mahboob Subhani who constructed the Nishani also deposed on 10-05-2016 that he had constructed the Kareemullah Shah Quadri Nishani with the consent of Mutawallies Shaik Basheed, Shaik Ghouse Mohiuddin and Shaik Mahaboob Ali. The very fact that the Mutawallies remained silent when the construction was going on speaks volumes of their complicity and collusion. The Enquiry Officer opined that the delinquent Mutawallies had deliberately allowed the illegal construction over the land under the control of the Dargah. They have thus exercised powers beyond their competency betraying the trust reposed in them. The Charge is therefore proved beyond doubt.

Charge VI

It is alleged that though there are (13) persons in the employment of Dargah, all the employees were not found on duty when the auditors cross checked the attendance during audit. It is further alleged that the Mutawallies forced some employees to attend to their personal work threatening them of dire consequences. It is further alleged that the delinquent Mutawalli is utilizing the services of Shaik Ismail. The delinquent Mutawalli did not offer any explanation and silent over the issue even though the evidence Dt: 10-05-2016 of Sri Shaik Abdul Sattar, Shaik Basheed, Shaik Ismail was communicated. Under the circumstances, it has to be deemed that the delinquent did not have any explanation to offer. The charge therefore stands proved.

Charge VII

It is alleged that adequate basic facilities are not provided by the Mutawallies at the Dargah visited by thousands of devotees. The delinquent Mutawallies simply said that they have provided maximum facilities like drinking water etc., and denied the charge.

It is seen from the records that there is adverse coverage of the poor facilities available at the Dargah for devotees reported in the daily newspapers dated: 07-01-2014 and there is a complaints dated: 09-01-2014 from the devotees of practically no facilities for the devotees. The simple denial of the charge by

the delinquent without offering any explanation in defence seen in the context of compliant petition and the media coverage goes to prove that the facilities were not satisfactory at the Dargah were utterly inadequate. Therefore the charge is proved.

Summing up his conclusion, the Enquiry Officer stated that the delinquent Muthawalli, during his tenure as Mutawalli of the Dargah displayed scant regard for the responsibility given to him and indulged in acts prejudicial to the Dargah interests which he is expected to protect. He failed to perform his duties in a transparent manner and to enhance the image of the Institution. He acted arbitrary without caring for the rules and procedure as if he is managing his personal property. He finally concluded that all the charges levelled against The Muttawalli stand conclusively proved.

The competent authority examined the findings of the Enquiry Officer with reference to the article of charges, statement of defence together with material available on record and ordered to issue show-cause notice for removal of the Muttawalli. Accordingly the show-cause notice was issued vide reference 7^{th} cited asking the Muttawalli to show cause why he should not be removed from the services of Muttawalli.

He has submitted further explanation to the show-cause notice vide reference 8^{th} cited. His further explanation has been examined and discussed below.

The further defence statement submitted by Sri Shaik Mahaboob Ali in reply to the show-cause notice issued has been examined by the competent authority together with the Article of charges, the defence statement filed by the delinquent Muttawalli, evidence available on record and the enquiry report. The competent authority held that the charges levelled against the Muttawalli stand proved conclusively beyond reasonable doubt in as much as all the allegations are based on the recorded evidence as mentioned in the Article of Charges, and felt necessary to remove Sri Shaik Mahaboob Ali, from the services of Muttawalli to meet the ends of justice, as the Muttawalli is guilty of grave financial irregularities. It is also felt necessary that such person should not be allowed access to institutions like Hazarat Baji Shaheed (RA), Peddakakani. Hence, following orders are passed.

ORDER:-

Sri Shaik Mahaboob Ali, S/o. Sri Shaik Baji Saheb, Muthawalli Dargah Hzt Baji shaheed (Rh), Aulia at Peddakakani, Guntur District is removed from the services of Muthawalli from the date of issue of this order u/s 64 of Waqf Act 1992 read with rule 24 of waqf rules 2000.

He is directed to acknowledge receipt of these proceedings on the duplicate copy with dated signature and re-submit the same immediately.

9.8.2017

Sd/-.,

Chief Executive Officer,
Andhra Pradesh State Waqf Board,
Vijayawada.

To,
Sri Shaik Mahabook Ali, S/o. Sri Shaik Baji Saheb Muthawalli (Under Suspension)
Dargah Hzt Baji Shaheed Rh Aulia,
Pedakakani Guntur District, (in duplicate) and
Through Inspector Auditor Guntur District.

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